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COMMISSION OF INQUIRY RELATING TO
THE SECURITY AND INVESTIGATION
SERVICES BRANCH WITHIN
THE POST OFFICE DEPARTMENT



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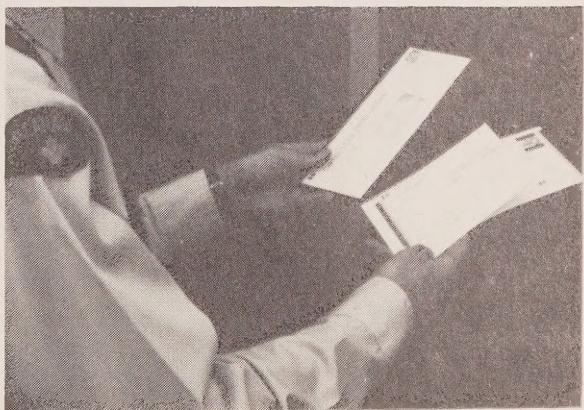
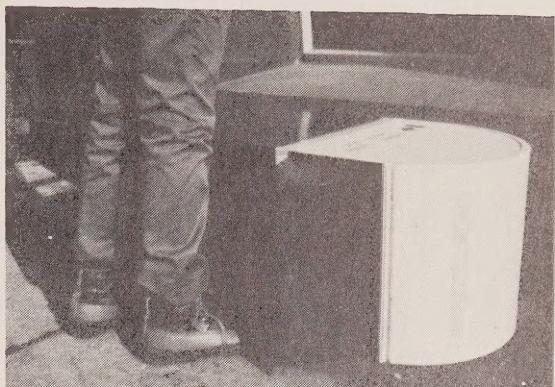
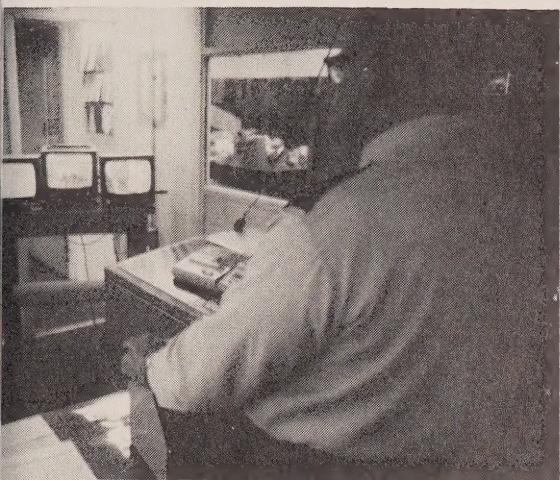
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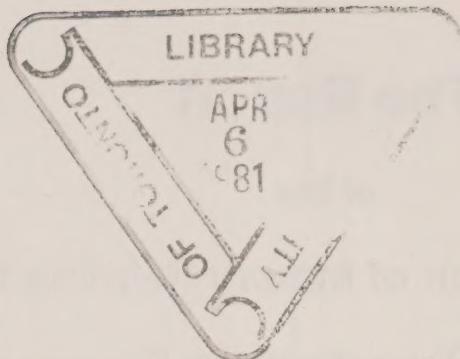
The Report

of the

Commission of Inquiry Relating to

The Security and Investigation Services Branch

Within the Post Office Department



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Ottawa, January 7, 1981

The Honourable André Ouellet, P.C., M.P.
Postmaster General for Canada
Sir Alexander Campbell Building
Confederation Heights
Ottawa, Ontario
K1A 0B1

Sir:

The Commission of Inquiry relating to the Security and Investigation Services Branch within the Post Office Department, established under Order-in-Council P.C. 1980-1310 dated 15 May, 1980 as amended by P.C. 1980-1544, dated 5 June, 1980, has the honour to submit the report of its findings and recommendations.

Respectfully yours,

René J. Marin
(Commissioner)

COMMISSION

COMMISSIONER

HIS HONOUR JUDGE RENE J. MARIN

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Format for Recommendations

For purposes of identification, the recommendations of the Commission have been prefixed and numbered according to subject matter. The following is a list of explanation of the prefixes used.

POS. Peace Officer Status

MOP. Mail-Opening

SEC. Security and Investigation

Introduction

Establishment of the Commission

The Order in Council establishing this Commission of Inquiry, P.C. 1980-1310 dated May 15, 1980 as amended by P.C. 1980-1544 dated June 5, 1980, reads as follows:

The Committee of the Privy Council on the recommendation of the Minister of Justice and the Postmaster General and pursuant to Part II of the Inquiries Act, advise that His Honour Judge René J. Marin of the County and District Courts of Ontario, be appointed as a Commissioner to investigate and report upon that part of the business of the Post Office Department pertaining to:

- (a) the operations and activities of the Security and Investigation Services Branch relating to criminal investigations and the enforcement of the postal offence and penalty provisions of the Post Office Act and the Criminal Code;
- (b) a proposal to confer the status of peace officer, within the meaning of the Criminal Code, upon employees in that Branch relative to the criminal investigations and enforcement activities aforesaid; and
- (c) the circumstances under and the manner in which that status might be conferred upon the employees aforesaid, if at all.

The Committee further advise that

- (a) the Commissioner be authorized to adopt such procedures and methods as he may from time to time deem expedient for the proper conduct of the Inquiry and may sit at such times and at such places as he may decide from time to time;
- (b) the Commissioner be authorized to have complete access to personnel and information available to the Post Office Department and other departments and agencies of the Government of Canada and be provided with adequate working accommodation and clerical assistance;
- (c) the Commissioner be authorized to engage the services of such staff and counsel as he deems necessary or advisable at such rates of remuneration and reimbursement as may be approved by the Treasury Board;
- (d) the Commissioner be required to submit a report to the Postmaster General of Canada embodying his findings and

recommendations and advice relating to future action, if any, within four months, or within such further period of time as the Postmaster General may authorize, and to provide interim reports if so requested by the Postmaster General;

and

- (e) the Commissioner be required to file with the Public Archives of Canada the papers and records of the Commission as soon as reasonably may be after the conclusion of the Inquiry.

The Committee further advise that, pursuant to section 37 of the Judges Act, His Honour Judge René J. Marin be and is hereby authorized to act as Commissioner for the purposes of the said investigation.

The Commission interpreted its terms of reference to require that its final report should:

- describe the nature and extent of the Post Office's security problem;
- assess the measures which the Post Office has adopted to meet its security needs;
- assess proposals which have been advanced, from inside and outside the Post Office, to deal with the security problem, including the proposal to confer peace officer status upon postal inspectors;
- recommend means by which Government might respond to the Post Office's security needs.

Early in the hearings it became apparent to the Commission that it should expand its interpretation of the terms of reference to include an examination of the question of mail opening.

The Commission made two major assumptions in all its activities. First, it assumed security in the Post Office was of concern to both management and labour. Canadian postal employees are represented by four labour unions: the Canadian Union of Postal Workers, the Letter Carriers' Union of Canada, the Public Service Alliance of Canada and the International Brotherhood of Electrical Workers. Both unions and management were involved in all public aspects of the Commission's work. Counsel for Post Office management and counsel for the unions and the Canadian Labour Congress were recognized by the Commission and allowed to question witnesses at public hearings.

Representatives of both unions and management accompanied Commission staff on tours of postal facilities and were consulted informally on the Commission's goals and procedures. This canvassing of both viewpoints has assisted the Commission in its efforts to strike a balance in its final recommendations.

The second assumption was that the Commission should be accessible to the public since taxpayers have a vested interest in a secure and efficient postal service. The Commission held public hearings from July 14, 1980 to October 17, 1980 in each of the four postal regions of Canada. Advertisements were published in both official languages in 45 daily and weekly newspapers during the week of June 16, 1980 (see Appendix A). As a result the Commission received submissions from individuals and organizations in every part of Canada. Further, the Parliamentary Press Gallery in Ottawa was notified of the time, date, and location of each public hearing and, when possible, of the list of witnesses who would be appearing.

The Commission recognized that it was working under two constraints. First, the question of mail-opening was being examined by the Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police. Although there was no desire to duplicate that work, it was felt that the implications of mail-opening went beyond what might be done by the R.C.M.P. in the name of national security. The Commission, therefore, could not ignore the topic but for the most part directed its examination to other elements of the subject, particularly to the legal aspects and to the impact on postal security.

The second constraint was that, as the Commission examined security in the Post Office Department, legislation was being prepared and debated to convert the Department into a crown corporation. Accordingly, the Commission conducted its inquiry and drafted its recommendations in such a way as to make them equally pertinent to a federal department or a crown corporation. In a number of specific matters, there was concern that the new legislation would be enacted by Parliament before this report could be published. If that were to happen, certain shortcomings in the bill which augured ill for the provision of a secure postal service would be enshrined in law and difficult to change. To meet this the Commissioner wrote personally to the Postmaster General who indicated that he would take steps to have the necessary amendments presented to the Parliamentary Committee examining the bill. The Commissioner also accepted an invitation to appear as a witness before the Committee on December 15, 1980. On that occasion the Commissioner urged that the bill be amended to enshrine the principle of the sanctity of the mail and also specifically to provide for the appointment of postal inspectors.

Methodology

Research

The Commission's initial mandate was very short — four months. This was extended by the Postmaster General for three months. Even so it was recognized during the preliminary planning phase that difficulties would be encountered in scheduling witnesses and in having submissions presented over the summer. It was also recognized that the Commission's analytical work would have to be telescoped to allow it to meet its deadline. As a consequence its research and public hearings were conducted simultaneously, and major portions of the research were done by consultants with established reputations in the field of criminal justice. These consultants were given specific tasks to accomplish within fixed time limits:

- to define the extent and causes of loss to the Post Office;
- to examine the impact of loss on the Post Office and its customers;
- to describe the structure, operations, personnel and philosophy of the Post Office security force.

Research consultants were also engaged to analyse the legal implications of granting peace officer status to postal inspectors and, subsequently, to assess the state of the law on mail opening.

An informed and independent evaluation of the security problems and responses within the Post Office was considered essential. The Commission consulted security experts in private industry and within the United States Postal Inspection Service to extend its critical appreciation of the problems and of possible solutions. Expert witnesses on specific security matters within the Post Office were called to testify *in camera* before the Commission.

Security Investigators

To obtain a professional perspective on the *modus operandi* of the Post Office's Security and Investigation Services Branch and, in particular, to assess the utility of peace officer status for postal inspectors, the Commission obtained the services of four municipal police investigators from Vancouver, Halifax, Ottawa and Toronto. These officers conducted interviews with personnel of the Security and Investigation Services Branch to determine, among other things, personnel recruitment and training requirements and investigative techniques. They also reviewed files of the Security and Investigation Services Branch and assessed the handling of specific cases brought to the attention of the Commission at its public hearings.

Field Work

Without first-hand knowledge of the operations of postal facilities and of security techniques, the Commission could not hope to achieve a realistic perspective on security within the Post Office. The Commission, therefore, toured 12 postal installations, both large and small, in Victoria, Vancouver, Calgary, Saskatoon, Winnipeg, Toronto(2), Ottawa, Montreal(2), Moncton and Halifax. During consultations with United States Postal Inspection Service officials, it also toured American postal facilities in Washington, D.C. and New York City.

Documentation

The Commission at all times made its unclassified files available for public inspection. These files contained the research materials provided by the Post Office which were not classified as "Confidential", and also the materials derived from members of the general public. Furthermore, all exhibits from public hearings were sent, as a matter of course, to counsel representing management and labour. Where possible, the Commission attempted to have papers provided on a confidential basis during private hearings declassified.

Counsel for the unions submitted requests for access to Commission working papers and to numerous Post Office documents which were classified "Confidential". Appendix B presents the ruling on the request for access to Commission papers, and Appendix C is the ruling on the request for access to Post Office documents.

Acknowledgements

The Commission benefitted from the cooperation and assistance of many organizations and individuals. Foremost among these were the members of the public who took the time and effort to express their views about Post Office security. The high degree of public concern for an efficient and secure Canadian postal service has guided the Commission's deliberations and conclusions. Without this consistent and thoughtful contribution from private individuals, the work would have been much more difficult.

The Commission would like to express its appreciation for the assistance it has been given by all levels of Post Office staff, from senior management to the most junior employees. It is also indebted to the many postal plant managers and local union representatives who accompanied the Commissioner and his staff on tours of postal facilities throughout Canada. Without

their comments on specific security problems, this report and its recommendations might have been of limited practical application. Similarly, the Commission appreciates the kindness of Kenneth Fletcher, Chief Postal Inspector, United States Postal Inspection Service, and his staff in arranging the tours of postal installations in Washington and New York and in discussing the security problems and investigative techniques of the United States Postal Inspection Service. The Commission is also grateful to the Honourable John Fraser, P.C., M.P., and to Sidney Parker, M.P., for sharing with it their views on Post Office security.

Robert Hann of The Research Group in Toronto, and Claude Morin of Maheu, Noiseux, Roy et Compagnie in Montreal, acted as research consultants on postal losses. To them and their respective staffs, the Commission expresses its gratitude for the high calibre of their research. They accomplished a great deal in very little time and with limited budgets. Without their assistance, the Commission's knowledge of the actual losses from the postal system would be minimal. They contributed a great deal to the Commission's understanding of the postal security system.

Philip Stenning, Special Lecturer at the Centre of Criminology, University of Toronto, provided the Commission with extensive reports on the legal implications of peace officer status and on the state of the law on mail opening. His reports saved the Commission much time in surveying the legal aspects of the issues being examined. Clifford Shearing, Coordinator of the Graduate Faculty, Centre of Criminology, University of Toronto, was of great assistance in formulating the Commission's research program.

The Commission was fortunate in obtaining the services of Sergeant Gerald Roy of the Vancouver Police Department, Staff Sergeant Maxwell Gordon of the Metropolitan Toronto Police, Sergeant Alain Méhot of the Ottawa Police Force and Detective Lawrence Clare of the Halifax Police Department. They gave unstintingly of their expertise to advise on the investigative techniques of postal inspectors. The Commission is grateful to former Chief Constable Donald Winterton of the Vancouver Police Department, Chief John Ackroyd of Metropolitan Toronto Police, Chief Thomas Welsh of the Ottawa Police Force and Chief Fitzgerald Fry of the Halifax Police Department for making these investigators available.

David W. Scott, Q.C., of Ottawa, Harvey W. Yarosky of Montreal, and Gérald E. Desmarais of Sherbrooke, Quebec, acted as Commission Counsel for the public and *in camera* hearings. These gentlemen represented the Commission with great skill. Their persistence in wading through the voluminous background material is to be commended. In addition David Scott

rendered splendid service as general counsel for the Commission. The Commission also acknowledges the cooperation of the two other legal counsel who were present throughout the public hearings. Peter McInenly represented the Post Office Department, of which he is Director of Legal Services. Thomas A. McDougall, Q.C. of Ottawa represented the Canadian Labour Congress, the Canadian Union of Postal Workers, the Letter Carriers' Union of Canada, the Public Service Alliance of Canada and the International Brotherhood of Electrical Workers.

The unflagging effort and good humour of its support staff enabled the Commission to operate smoothly, despite constraints of time and budget. Special thanks are due to Alex Inglis for his editorial advice and assistance.

To the many others who assisted, both privately and publicly, the Commission expresses its thanks and the hope that they will find satisfaction in knowing that they have contributed to improving the security of the mail in Canada.

Chapter 1

Canada's Post Office

To understand the security problems and responses of the Post Office requires some knowledge of the institution itself. It would be impossible to provide a complete description in this report. It would also be unnecessary. An understanding of certain fundamental characteristics is sufficient. The critical elements of interest here are the objectives, services and organization of the Post Office.

Objectives

A 1978 report¹ described the Post Office in the following terms:

The Post Office is both a business undertaking and a national service. It has seen little change in its functions since Confederation, with the traditional nature of postal service being the collecting, processing and delivery of letters and small parcels to any and all parts of the country. These basic services were developed decades ago, in response to the country's need for a uniform, national mail system covering both communications and distribution.

In order to carry out these functions, the Postmaster General is vested with a number of specific powers under the Post Office Act. He may establish, manage, operate, maintain and close Post Offices and postal routes; appoint Postmasters; establish various systems for the efficient operations of the Post Office; provide door-to-door delivery of mail; provide for the erection of letter boxes and other receptacles for the receipt and storage of mail; provide for the manufacture and sale of stamps and other forms of postage; enter into agreement with other countries with respect to international postal services; and make regulations for putting into effect the various provisions of the Act....

The Post Office was established to fulfill certain social needs, and while almost all aspects of other Canadian institutions have changed beyond recognition, the Post Office continues to carry out the basic function of carrying hard copy and shipping goods and articles from one point to another. Its services are well known, it is a manifestation of the federal presence in almost every

1. *Considerations which Affect the Choice of Organization Structure for the Canada Post Office*, Report of a Study Group to the Postmaster General, the Honourable J. Gilles Lamontagne, Printing and Publishing, Supply and Services Canada, 1978, pp. 1-2.

community, it promotes the dissemination of printed information and it provides equalized communication costs (with the exception of parcel post) across the country by charging the same rate regardless of distance.

The Post Office has a dual nature. It is a public service, operating as a federal government department and acting as trustee of the mail. It is also a business with many of its employees working in an industrial environment and its customers purchasing the services it provides. It is a major communications and advertising medium and essential ingredient for many Canadian business operations. In recent years, its management has emphasized its commercial and marketing elements.

This dual nature of the Post Office brings problems with it, as was noted in the 1978 study.

The Post Office must reconcile conflicting aims, perceptions, and expectations regarding its purpose. It has been praised and taken for granted; it has also been denigrated and ignored. There has been no satisfactory resolution of its role as a public service and the essentially commercial nature of its activities. This manifests itself in demands for expanded or improved service and concomitant resistance to increased rates and charges. The approved objective of the Post Office demonstrates this:

To provide postal services to the people of Canada at rates which will provide a standard of service adequate to meet their needs without incurring subsidization from general taxation other than that required to cover losses specifically in relation to other government objectives.²

To provide postal service to the people of Canada has required the creation of a vast network of pick-up, storage, forwarding, processing and delivery services. According to the Department's Annual Report for 1980 the Canada-wide network consisted of:

- 8,257 postal facilities, comprising 297 postal stations, 423 staff post offices, 2,009 semi-staff post offices, 3,412 revenue post offices, and 2,116 sub-post offices;
- 28 mechanized postal processing plants, some operating 24 hours a day, seven day a week;
- 13,902 urban letter carrier routes served by full-time employees and 562 urban routes served by employees hired on a part-time basis with a total of 6,232,283 points of call;
- 5,024 rural routes serving 1,050,173 households;

2. *Ibid.* p. 2.

- 80 suburban routes serving 36,885 households.
- Operating this network involved:
 - 52,800 full-time employees;
 - 63.99 million kilometres travelled by about 3,200 vehicles;
 - \$1763 million in expenditures, against \$1483 million in revenues.

Services

During the 1979-80 fiscal year about 6,409 million items of mail moved through the Post Office's network of systems or services and its labyrinth of rate structures, financial and operational procedures.

There are four basic 'classes' of mail. 'First class' is the highest grade of standard service. It can be either domestic or international and is used routinely for letters, postcards, business reply mail, printed accounts, receipts, cheques and other financial instruments. In addition, any other mailable matter weighing up to 30 kilograms can be sent 'first class' on payment of the appropriate postage. 'Second class' mail is reserved for newspapers and periodicals mailed by publishers at statutory and regulation rates. A licence is required to use second class mail which is available only if the publication meets certain criteria. 'Third class' mail includes greeting cards, small parcels up to 500 grams, unlicensed periodicals and association papers, books, advertising matter (both addressed and unaddressed) and other printed matter. 'Fourth class' is for parcels weighing between 500 grams and 16 kilograms. Catalogues and similar printed matter weighing over 500 grams are carried at a special catalogue rate.

A fifth category of mail is for bulk users. 'Postpak' is a mail service using bags or cartons to move goods in bulk at reduced rates. The mail is prepared in containers for delivery intact to the addressee by surface transportation. Maximum weight of a bag to be shipped by Postpak is 30 kilograms and maximum weight of a carton is 23 kilograms.

A number of postal services are designed for speedy delivery. Two of these are electronic. 'Telepost' is an electronic mail communication service allowing messages to be sent over the CN/CP Telecommunications network to a designated post office near the message's destination from which it is delivered by hand. 'Intelpost' is a service for the transmission of documents to other countries by satellite and land line. At the time of writing, the service is available only between Toronto, Ontario, and New York City, Washington, D.C., and London, England.

Two other enhanced delivery systems use conventional means of transportation. 'Priority Post' generally offers next day delivery for domestic users. It is available only with an individual service agreement in which the Post Office and the mailer agree to specific conditions such as time and location of mail pick-up, destinations, delivery times and frequency of service. The service is available only in bag-lots which must be signed for by the addressee or his agent. The maximum weight per bag is 20 kilograms. The contents can be any combination of items. 'International Priority Post' also requires bag-lots. It may be used for mail to another country with which Canada has a memorandum of understanding for the accelerated exchange of mail. Its use is limited to correspondence, business documents, commercial papers and other non-dutiable items. At present the service is available between Canada and Hong Kong, Britain and the United States.

Yet another accelerated system is provided by Special Delivery. For an additional cost first class mail is delivered by the fastest method available—messenger, letter carrier or lock box.

The Post Office offers several 'signature services' which provide proof of mailing and/or delivery. One of these, 'Registered mail' is described by the Post Office as its "most secure service". An additional registration fee is added to the regular first class rates of postage for this service which can be used for delivery within Canada or to other countries. A receipt is issued at the time of mailing, a record of the item is kept as it moves through the post, and signed, dated proof of delivery is acquired. For an additional fee, the sender can receive an acknowledgement of delivery. Another form of registered mail is provided by the 'Money packet service' which is available for shipments of bank notes, gold bullion, jewellery, negotiable instruments and other items valued at over \$100. Recipients of money packets are notified of their arrival and must come to a designated post office to collect them.

'Certified mail' provides proof of delivery. It is available at additional cost for first, third and fourth class mail within Canada. Unlike registered mail it does not provide the sender with a receipt to prove that the article was mailed. However, it does provide signed proof of delivery. 'C.O.D.' (Cash On Delivery) also provides proof of delivery, although that is not its primary purpose. For an additional cost the Post Office collects the amount due for merchandise on delivery. A receipt is issued at the time of mailing and the amount collected is remitted to the sender by postal money order after delivery. The service is available only within Canada and for amounts up to \$200.

In addition to providing proof of delivery, the four services described above provide an indemnity for customers in the event of loss, rifling or damage. Priority Post and International Priority Post provide indemnities in the event of loss or damage only. For all other classes of mail except second class and mail containing cancelled or uncancelled postage stamps or lottery tickets, the Post Office will sell the customer insurance against loss, rifling or damage. Fragile and perishable items cannot be insured against damage, though they can be insured against loss or rifling. With slight variations similar insurance can be purchased for mail to be delivered outside Canada to any country where postal insurance service is available.

There are a number of subsidiary mail services and categories. 'Second Delivery', as its name implies, provides a second attempt to deliver mail when a first delivery is unsuccessful. The service is only available for Registered, Certified, Postpak, C.O.D. and regular parcels. A special rate is applicable for most books passing on loan between libraries and their patrons. Similarly, educational films get a special rate when passing between a school and its provincial Department of Education.

Business reply cards or envelopes can be used under licence by a business to receive mail from its customers. First class postage plus a service charge is collected from the business on delivery of the mail.

In addition to these services, some mail is carried free of charge. All mailable matter other than fourth class may be sent without postage being paid if it is addressed to or mailed by:

- the Governor General or his secretary;
- members of the Senate;
- members of the House of Commons during parliamentary sessions and during the 10 days following dissolution of the House;
- the Speaker of the Senate and the Clerks of the Senate and Commons;
- the Parliamentary Librarian or the Associate Parliamentary Librarian.

Members of Parliament may also send their constituents up to four free mailings of printed "householder" material during each fiscal year. Mail related solely to Post Office business may be sent free by postal employees. Official change of address notices and literature for the blind can also be sent free of postage.

Figures available from 1978 show that over 80% of all mail was sent to or from business and government with less than 20% being mail between members of the general public. Further, it was estimated that approximately 40% of the mail in Canada is related to financial transactions.³ Although a

3. *Ibid.* p. 3.

good part of this 40% is no doubt composed of bills and invoices, it also includes money orders, cheques, credit cards and money packets which, in addition to cash, can contain bullion, jewellery and negotiable instruments. Other articles of value sent through the mail might include legal documents, airline tickets, furs, records and tapes, stereo equipment, camera equipment, television sets and other electric household appliances such as vacuum cleaners, and firearms.

It is obvious from this partial listing that the Post Office is entrusted with the transportation and care of goods owned by the public which are of considerable value. Much of this property cannot easily be replaced if lost or damaged. Nor is it likely to be acceptable to the Canadian public that the Post Office should allow for "shrinkage", the "acceptable" rate of loss that is assumed by commercial organizations. Also, unlike private or other public firms, it is impossible for Canada Post to make an inventory of the property that it transmits, because "in the course of post" is a never-ending flow.

Organization

Although there is a bill before Parliament to change the Post Office into a crown corporation, it is at present still a department of the federal government established by virtue of the Post Office Act and its employees are public servants. It reports to Parliament through the Postmaster General who has ministerial responsibility for its direction and management. Parliament sets postal rates and grants appropriations from general revenues to subsidize the postal system.

The senior official of the Post Office is the Deputy Postmaster General. Reporting to him are five assistant deputy postmasters general, each having functional responsibility for one of the following areas:

- Operational Services;
- Personnel Services;
- Corporate Affairs;
- Marketing Services;
- Finance and Administration.

Functional responsibility essentially means that the assistant deputy postmasters general have no line management authority over operations in these five areas; they are responsible for national policy and standards — in other words they deal with "how to do" the job not "what to do".

Postal operations in Canada have been largely decentralized. For managerial purposes the country is divided into four regions which, in turn,

are broken into 14 districts. Operational responsibility for each region is vested in a regional general manager.

The four postal regions and the fourteen districts are organized as follows:

- Atlantic Postal Region
 - New Brunswick/Prince Edward Island Postal District
 - Nova Scotia Postal District
 - Newfoundland Postal District
- Quebec Postal Region
 - Montreal Postal District
 - Quebec West Postal District
 - Quebec East Postal District
- Ontario Region
 - Northern Postal District
 - Eastern Postal District
 - Southwestern Postal District
 - Metropolitan Toronto Postal District⁴
- Western Postal Region
 - Manitoba Postal District
 - Saskatchewan Postal District
 - Alberta and Northwest Territories Postal District
 - British Columbia and Yukon Territory Postal District.

Each regional general manager reports directly to the Deputy Postmaster General. Within the regions, responsibility is divided among district managers and regional directors. District managers have line responsibility for the postal districts while the regional directors are responsible for the various 'functions' — personnel, marketing, finance and security. Both district managers and regional directors report directly to the regional general manager.

Clearly the Post Office is a large and complex organization. It is worth noting, however, that it differs from other large private and public organizations. It provides a service for communication and transportation of letters and parcels, for which there are few alternatives, especially in smaller,

4. The Metropolitan Toronto Postal District is being phased out of the organizational structure. Responsibility for its management is being given to two regional directors: the Regional Director, Metro Toronto Processing Plants and the Regional Director, Toronto Retail and Collection Services.

outlying communities. Since the Post Office is often in a monopoly position in providing these services to Canadians, the efficiency and effectiveness of its activities are extremely visible and publicly sensitive. It has been stated that "the communication function of the Post Office is central to the maintenance and development of our society and economy".⁵ Despite the competitive challenge from private courier services and electronic systems, the Post Office, although it may be changed from a government department into a crown corporation, remains an important national agency.

Losses

To understand the security requirements of the Post Office and the dimensions of the task of the Security and Investigation Services Branch, the Commission sought to establish the extent of the losses experienced. It was not an easy task. Adequate records have not been maintained and the perception of loss is not all encompassing. Since the Post Office could not supply a comprehensive statement of its losses, the Commission brought together what information it could to develop a realistic picture of the losses suffered. In doing so it examined losses from theft, misappropriation of funds, vandalism and accidental causes such as the breakdown of machinery.

Although the Commission was unable to produce a definitive, statement of losses, it was able to establish a firm figure which was considerably higher than that acknowledged by Post Office management. It was also able to identify areas where, although no firm figure could be established, it knew that considerable loss had occurred.

Post Office witnesses before the Commission estimated losses at approximately \$2,000,000. When questioned further, however, it became apparent that they were referring only to payments made to settle claims arising out of loss, damage or rifling of insured mail. The Commission needed a broader definition which included all losses from purposeful activity such as theft and from accidental causes such as mail damaged by Post Office processing. It was also apparent that while the most easily measurable losses would be those borne by the Post Office itself, postal customers also suffer losses as a result of poor security, as does the taxpaying public at large. With these thoughts in mind, the Commission identified the following areas in which losses were being sustained.

- indemnities paid for losses claimed for registered mail, money packet service and C.O.D. items;

5. *Op. cit.* p. 8.

- indemnities paid for uninsured mail which had been damaged or rifled (part of the contents of the mail was removed);
- theft of postage stamps, remittances and other property;
- cashing of stolen money order blanks;
- uncollected postage due;
- fraud by customers and employees;
- misappropriation of funds;
- financial shortages;
- vandalism and accidental damage to property and equipment;
- vandalism and accidental damage to the property of employees, for which compensation was paid.

The Commission pursued this line of reasoning in further questioning witnesses to determine the extent of losses at the Post Office during the fiscal year ended at March 31, 1980. Examples of testimony follow:

- Commission counsel asked the Regional General Manager of the Western Postal Region, "What would the dollar value . . . [of] . . . thefts from the mails [be] during the last fiscal year, in the Western region?" He replied, "Well, that is one which I don't think we really know with any degree of accuracy." The Regional General Manager went on to explain that often the Post Office Department is not notified of the loss of personal gifts shipped through the mails in parcels. He suggested that a more accurate picture was available for those categories of mail for which a receipt is issued. Counsel asked, "Are you saying, though, that the number that you might generate from your claims is probably lower than the real value of the losses?" The answer: "Yes, it is definitely lower. Just by how much, I don't know."⁶
- When asked, "Have you any information, within your organization, as to the extent of theft in terms of dollars, from the mails, in the Winnipeg mail processing plant?" the Plant Manager replied, "In terms of thefts, no."⁷
- The lack of statistical data on internal mail theft from Gateway, the largest mail processing plant in Canada, was mentioned by the plant's manager. He testified, "I am not at all sure there is anyone who really knows how much is being stolen . . ."⁸
- The Deputy Postmaster General was asked if it was true that the Post Office "has no handle at all" on the real loss to the public. He replied, "That is correct."⁹

6. Transcript p. 1260-1261.

7. *Ibid.* p. 1216.

8. *Ibid.* p. 1804.

9. *Ibid.* p. 2677.

The Commission examined various categories of mail in order to determine the amount lost during the most recent fiscal year (1979-80). In doing so, it was recognized that the figure established would be incomplete. In many cases the Commission's researchers had to limit themselves to sampling the files. Even if it had been practicable to examine all the files, the total arrived at would still not have been the entire amount lost. Many losses occur which go unreported. Although it is not possible to estimate how extensive unreported losses might be, the Commission heard of one incident that was most revealing. Some years ago a mail truck was hijacked. After a considerable period of time its entire contents were recovered. When the recovered contents were matched against the files of claims and enquiries that had been received, it was discovered that only 3% of the articles lost had been reported to the Post Office.

Insured mail

The Post Office sells its customers insurance against loss, damage or rifling of first, third and fourth class mail for delivery within Canada, the United States and other foreign countries offering a postal insurance service. The customer buys insurance by affixing additional postage but does not declare a precise value for insurance purposes. Rather, the article is insured within a range with the minimum and maximum determined by the amount of postage affixed. If an item is lost or damaged, the customer is compensated within the range of the insurance purchased, though not necessarily for the amount claimed.

In 1979-80, the Post Office received 45,148 claims for loss of insured mail. Of these 22,409 were accepted and a total of \$2,222,187.50 in compensation paid. It is obvious, given the discretion of the Post Office in determining whether the customer's valuation is accurate and given the large number of rejected claims, that this figure must be treated as the minimum amount lost. It could be considerably higher.

The Commission asked if the Post Office had statistics on the difference between its valuations and those of its customers for paid insurance claims. These statistics were not available. To fill this gap the Commission's researchers sampled 1,616 files drawn from the four postal regions. These revealed that, on average, customers were paid 8.96% less than the amount claimed. If it were assumed that this sampling held true for all paid claims and that the customers' valuations were accurate, the accepted losses of insured mail would be increased to \$2,439,135.58.

In the case of unpaid claims, the Commission sampled 510 files from the Toronto Postal District. This sample included claims for both insured and uninsured mail. After elimination of those which had been satisfactorily resolved and those in which customers had not indicated the value of the contents, 195 claims were left with an average stated value of \$74. Since more than half the claims for insured mail are rejected, it is apparent that there is a potential for actual losses being considerably in excess of the amount of insurance paid.

Rather than run even the slightest risk of overestimating the losses the Commission decided that it must err on the conservative side and accept the amount paid in insurance claims as the minimum loss suffered by insured mail. In doing so, however, the Commission rejects the argument put forward by Post Office management that in fact there is no loss from insured mail. They argue that since premiums for the purchase of insurance consistently exceed the compensation paid and the administrative costs of the program there is in fact no loss. This is not a tenable argument. That the insurance program makes a profit does not alter the fact that the Post Office itself accepted during the fiscal year 1979-80 that \$2,222,187.50 worth of loss and damage had occurred to insured mail.

The Commission, therefore, concludes that losses to insured mail during the fiscal year 1979-80 were at least:

\$2,222,187.50.

Money Packets

The money packet service is designed primarily for the transfer of currency, bullion and other items of high value to and from remote areas where armoured car and other secure means of transportation are not available. The Bank of Canada makes almost daily use of the service for the transfer of old notes in packages containing up to \$50,000 between its nine centres across the country and remote branches of chartered banks. The Canadian Bankers' Association informed the Commission that its members normally use the service only for the transfer of funds to remote branches where no secure alternative is available. It is apparent, however, that the service is used more widely. Some of the money packet losses reported during the fiscal year were from packages being carried between banks in major centres.

The liability of the Post Office for losses in the money packet service is limited to an indemnity of \$100 per packet. This amount is far less than the

values frequently contained in packets. From several lists supplied by the Post Office, the Commission was able to determine that at least \$1,095,000 was lost from the money packet service during the 1979-80 fiscal year. Of this amount, some \$4,000 was paid by the Post Office in the form of indemnities. Post Office officials argue that the loss from the money packet service is, therefore, only \$4,000. The Commission cannot accept that line of argument in estimating losses from what the Post Office itself describes as its "most secure service". It is also clear that the 1979-80 figure is not an aberration. In the first five months of the 1980-81 fiscal year, 15 money packets valued at \$768,000 have been reported lost. Three of these packets valued at \$183,500 were mailed in the Boston, Massachusetts, area and it has not yet been established whether they were lost in Canada or the United States. If the latter, they will not be included in the calculation of losses for the Canadian Post Office for 1980-81. Even so losses for the five months will total \$564,500 — a greater monthly average than that for the whole of 1979-80.

The Commission concludes that losses from the money packet service during the 1979-80 fiscal year were at least:

\$1,095,000.00.

Uninsured mail

The Post Office may pay an indemnity of up to \$100 for uninsured mail that is rifled or damaged due to processing. During the 1979-80 fiscal year it received 22,445 claims in this category. Of these 1,960 received indemnities totalling \$80,285.67. Since indemnities were only paid for less than 10% of claims, it is clear that the comments made in the discussion of compensation for insured mail apply with even greater force here. Indeed, the Commission finds itself barely justified in placing the losses of uninsured mail so low. It does so only in order to present a figure that is an indisputable minimum estimate of the losses suffered. There is no doubt that the losses in this category are considerably higher than the amount attributed here.

The Commission, therefore concludes that the absolute minimum loss suffered by uninsured mail is:

\$80,285.67.

Registered mail

Although technically not insurance, by paying the appropriate registration fee customers are entitled to indemnities of up to \$100 or up to \$1,000 if

their registered domestic mail is lost, damaged or rifled. Registered mail to the United States has a maximum indemnity of \$200. For other countries the maximum indemnity is fixed by the Universal Postal Convention. At the time of writing, this is set at \$15.76 in Canadian funds. Once again while the Commission notes that the Post Office may reject a customer's valuation, the amount paid in indemnities is accepted as the minimum loss suffered. Indemnities paid for domestic registered mail in 1979-80 were \$43,404.75; for registered mail to the United States — \$3,202.41; for registered mail between Canada and other countries — \$51,214.14.

The Commission concludes that the minimum loss of registered mail during fiscal year 1979-80 was:

\$97,821.30.

C.O.D.

Items sent C.O.D. have a declared value in the form of the amount to be collected from the addressee. In the case of loss, damage or rifling the sender may be indemnified for up to this declared value. During the fiscal year the Post Office paid 5,203 indemnities totalling \$219,472.53.

The Commission concludes that losses from C.O.D. operations during 1979-80 amounted to:

\$219,472.53.

Post Office revenues

Postal revenues are vulnerable in a number of ways ranging from holdups through stolen remittances to misrepresentation of hours worked. Some of these items lend themselves to exact calculation. Others are virtually impossible to estimate. The Post Office provided the Commission with figures on a number of items:

Theft of cash	\$ 69,922.17
Double payment of money orders	4,041.29
Stolen remittances	23,077.71
Revenue shortages	<u>275,163.00</u>
Total	372,204.17

This list is too limited to be complete even in the area of clearly calculable lost revenues. Shortages of less than \$100 discovered during inspections and audits are not reported to national headquarters. There are

also the more or less incalculable losses that result from customers being undercharged or dishonest employees misrepresenting the time they have worked.

The Commission accepts as a minimum estimate that the Post Office suffered losses of revenue during 1979-80 of:

\$372,204.17.

Post Office equipment and property

The people of Canada have a multi-million dollar investment in the Post Office in the form of equipment and property. The investment includes street letter boxes, mail trucks, and highly sophisticated (and expensive) computers which control equally sophisticated (and expensive) mechanized sorting equipment. The people of Canada also have a huge investment through the Department of Public Works in the thousands of buildings that house postal facilities. Any investment of this magnitude is vulnerable to theft and to vandalism. The Commission has reports of letter boxes being dragged out of Lake Ontario; of "every postage stamp machine in Winnipeg" being "hit" at least once in the course of a year; of vending machines being smashed in employees' rest areas; of postal trucks being deliberately rolled into barriers; of 20 fire extinguishers being stolen; and of an audit revealing a shortage of \$5,100 in vehicle tires. Although 19 cases of arson were reported in the Western Region, 38 in the Ontario Region, 32 in the Quebec Region and four in the Atlantic Region during the 1979-80 fiscal year, the only figure for damage caused by fire provided by the Post Office was \$2,495.61 sustained in two cases. No amount was given for any other form of vandalism.

It is clear that losses from theft and vandalism are considerable. The Commission has no way of measuring their extent. The Post Office does not keep centralized records of these costs. Even regional records are inadequate. One report from the Quebec region recorded 19 incidents of vandalism to trucks (12 of them occurring in only two locations) in one month. The report said nothing about the costs involved. The same thing applies to damage to Post Office buildings, the cost of which, although initially paid by the Department of Public Works, is eventually absorbed by the Post Office through increased occupancy charges.

In addition to the \$2,495.61 referred to above, the only information available on the losses of other Post Office property was in reference to robberies. The Commission was supplied with the following list:

Postage stamps	\$194,706.79
Philatelic values	7,010.00
Non-postal supplies	640.43
Stolen money orders	<u>3,630.02</u>
Total	205,987.24

The Commission is concerned that no figure was available for other thefts of Post Office equipment and property. It also wishes to point out that the only losses from stolen or fraudulent money orders that the Post Office takes into consideration are those which it incurs directly. It does not take into account the losses that banks may incur or, more likely, small businesses may incur from cashing such money orders. Yet these losses are directly attributable to the failure of postal security.

In keeping with its practice throughout this section, the Commission accepts the figures available as the minimum losses. More than in any other aspect, however, the Commission is convinced that losses to postal property and equipment are much greater than the amounts attributed.

The Commission, therefore, concludes that the minimum loss through vandalism and theft of equipment and property during 1979-80 was:

\$205,987.24.

Summary

The Commission has been able to identify the following losses as having been incurred during the fiscal year 1979-80:

Insured mail	\$ 2,222,187.50
Money Packets	\$ 1,095,000.00
Uninsured mail	\$ 80,285.67
Registered mail	\$ 97,821.30
C.O.D.	\$ 219,472.53
Post Office Revenues	\$ 372,204.17
Post Office equipment and property	\$ 205,987.24
Total	\$4,292,958.41

It is clear from the list of postal services described earlier in this chapter and the range of security breaches discussed later in the report that the amount identified here is but a fraction of the total loss sustained.

Chapter 2

Security

*He who does not prevent crime
when he can, encourages it.*

Seneca — Roman philosopher — A.D. 65

Much attention has been given in the last few years to the complex problems of creating a secure environment for government activities. Each department or agency of government has security problems peculiar to its own functions and responsibilities. Nonetheless it has been determined by the Royal Canadian Mounted Police, Protective Policing Directorate, and generally agreed by the security community that there are certain basic requirements for any security system, regardless of the particular situation.

An effective security system can be described as a series of layers superimposed upon each other in a hierarchical configuration. The first layer is the requirement for administrative and organizational structure. This includes the development and dissemination of security instructions; the appointment of personnel to administer the instructions; the development of clearly defined reporting channels to the appropriate levels of authority; and the communication of security needs based on identified threats to the interests or assets of the organization.

The second layer is the implementation of a comprehensive personnel security program. The aim is twofold. First, to administer effective employee screening to ensure that those who have access to sensitive information, valuable assets and restricted areas are given security clearance. Second, to educate employees about security principles and concepts in general and to show them how these apply to their specific jobs.

The third layer of the hierarchy is the application of physical and environmental security techniques to the assets to be protected consistent with the identified threat and the recognized degree of vulnerability.

Effective security programs which cover these three basic layers are essential to the creation of a generally secure working environment. They form the base upon which more sophisticated and more specific technical

security systems can be built. Specially designed procedures to protect electronic data processing, for example, will not be of much use unless these first three layers are already in place.

In examining the security system of the Post Office and measuring it against these administrative, personnel and physical requirements the Commission became aware of the critical report made by the Protective Policing Directorate of the Royal Canadian Mounted Police after recent security surveys of major postal installations.

The security standard of Canada Post is below the standards for Government Departments. This is due to the lack of security organization; non-compliance with laid down departmental policies and procedures and apparent weakness in physical security.¹

The object of this chapter is to examine in a broad sense the security problem in the Post Office Department with particular emphasis on the types of threats to security which exist and the current allocation of responsibility to counter those threats.

The security threat

The Post Office Department has been described in Chapter 1. It is a large and complex organization. Through a sophisticated network of equipment, manpower and facilities, it is responsible for the movement of an extremely high volume of items, many of which are of considerable value. The size and complexity of the organization make it potentially vulnerable to breaches of security in a number of ways. For convenience of analysis these have been divided into six categories:

- Theft or damage of mail;
- Theft or damage of equipment and property;
- Theft of revenues;
- Crimes against employees;
- Drug and alcohol offences;
- Illegal use of the mails.

The vulnerability of the Post Office is heightened by the widespread geographical distribution of its facilities. It operates out of over 8,000 buildings in every part of the country, conducts relations with 159 countries, delivers mail on 19,568 postal routes and uses tens of thousands of red and green street boxes for the collection and distribution of mail.

1. RCMP Security Inspection Report — August 28, 1979.

Theft or damage of mail

Theft or damage can occur at any stage of the mailing process:

- before delivery to Post Office personnel or facilities;
- after deposit in mail boxes and before being picked up for transportation;
- during transportation between mail boxes, relay boxes, postal stations and/or postal plants;
- within postal stations, sub-stations and plants;
- during distribution on letter carrier routes; and
- after delivery.

As indicated in Chapter 1, available data is not sufficiently comprehensive to estimate accurately the amount of mail stolen in any given period of time. Information on Post Office files, however, confirms that thefts occur during each of the above stages. The following examples illustrate the range and extent of the thefts.

In June, 1979, a supervisor at a major postal terminal in Ontario found a quantity of mail in an employee's locker. When interviewed by postal inspectors, the employee gave permission for a search of his car and residence. The search produced additional mail, a lock bag key and two mail bags. The employee readily confessed and, after investigation by municipal police, was charged with theft and possession of stolen property. Subsequently, he entered a plea of guilty in provincial court.

In the Spring of 1977, the Bill Prankard Evangelistic Association complained that envelopes addressed to them were being opened in the course of post. Ottawa District postal inspectors investigated the complaint and in due course alleged that they had observed a postal employee opening letters addressed to the association and extracting cash and cheques. He was subsequently charged in criminal court under the Financial Administration Act and fired from his job. The court, however, acquitted him of the charge and a later adjudication by the Public Service Staff Relations Board led to reinstatement in his job.

In August, 1973, a mail handler at the Toronto Postal Terminal stole a shipment of gold, which at today's prices would be worth around \$350,000. Investigation by the Metropolitan Police Department and postal inspectors resulted in the arrest of the mail handler and six citizens involved in organized crime activities in Toronto and Montreal. Later the same year postal inspectors and the Peel Regional Police Department investigated the theft from the mails of approximately \$120,000 in cash at the Toronto International Airport. The investigation was not conclusive even though a postal employee was suspected.

In June, 1975, a shipment of postage stamps valued at approximately \$18,000 was stolen from the mails at the Willowdale Post Office. In January, 1976, \$5,000 worth of property was recovered from a mail service courier after he was caught removing items of mail and placing them in his own vehicle. In September, 1977, \$20,000 worth of property was recovered from a postal employee who had stolen an entire shipment of parcels. On March 18, 1980, a gold bar worth about \$20,000 was removed from the mail and a steel bar of similar size and weight was substituted for it. The gold bar had been sent by a bank in Calgary to one in Toronto.

Theft or damage of equipment and property

In addition to the security of the mail, the Post Office is responsible for the security of the property and equipment used for postal services. This includes, *inter alia*:

- mail and relay boxes;
- postal vehicles;
- sophisticated mechanized equipment in the plants;
- sophisticated computer systems to control that equipment;
- postal plant, postal stations and office buildings;
- postal revenues.

Identifying the frequency and loss associated with property and equipment is even more difficult than for thefts of mail. With the exception of box depredations, statistics on damage to postal equipment are not kept in any centralized, coordinated manner. Although concern was expressed to the Commission about the losses in this area, that concern has not led the Post Office to a coordinated assembly of the facts on the extent and nature of the problem. Some examples, however, illustrate the types of losses incurred.

In January, 1979, a citizen saw two juveniles removing a pole letter box. The police were called and the juveniles arrested. The contents of the box were returned to postal inspectors and re-mailed.

In November, 1979, at the South Central Letter Processing Plant in Toronto, a postal employee on the midnight shift vandalized a food vending machine in an employees' rest area. The glass front of the machine was smashed, food was taken, and several of the shelves inside the machine were damaged. Witnesses refused to identify the employee for fear of retaliation and he was not charged. It was alleged that drug abuse had led to the incident.

During a two-week period in August, 1979, three incidents of vandalism occurred in Winnipeg and, although reported to local police by postal inspectors, no action was taken. The incidents included wilful damage to and theft from vehicles parked overnight at the Charleswood Letter Carrier Depot; a fire on the back loading dock of the depot; and the upsetting and theft of mail from a standing street letter box. A letter of complaint about the lack of police response was sent to the Chief of Police.

In the Western Postal Region during 1978, Post Office supplies and labour were used to construct stair runners, a cabinet, a fireplace mantel, tables, metal chimney flashings and other items for the home of a postal employee. The same employee also took "scrap" wood for his personal use.

Theft of revenues

The third area of concern is the appropriation by theft or fraud of Post Office or customer money, money orders, stamps, and other revenues. Such offences include a variety of activities: non-recording of money received at wickets, raising the face value of money orders, misrepresenting hours on time sheets, embezzlement of funds, overcharging or undercharging customers for shipments, and thefts by break and entry. Another revenue problem involves the calculation of postage by the weight of articles delivered to the plant in bulk. It is possible for one customer's mail to be weighed with that of another with the second customer paying for the other's mail. It is also suspected that mail can get into the stream without being weighed at all, resulting in losses of postal revenues. Again, some examples demonstrate the problem.

In December, 1979, a Toronto wicket clerk was arrested and charged with three separate counts of theft. He was overcharging for postage on parcels, affixing the correct amount and keeping the excess for his own use. This case was successfully investigated and concluded by postal inspectors using test parcels.

An employee in a sub-post office in Edmonton was charged in October, 1977, with theft of over \$200. He had made some \$900 worth of postal money orders payable to himself and used the proceeds to pay outstanding bills. In a Quebec sub-post office postal inspectors discovered a cash deficit of \$2,872.79. The wife of the sub-post office manager informed inspectors that she had given \$1,200 to her husband who had not returned home since she gave him the money and had probably, she said, gone into the woods. The remainder had been given to her son to help him buy a lot on which to build a house. The woman signed a "promise to repay" form and no charges were laid.

From April to September, 1979, an employee in Montreal used taxi coupons to defraud the Post Office of \$1,500. The employee cashed the coupons for a larger amount than was required to pay the taxi fares and kept the extra money. In due course a postal inspector's investigation led to criminal charges being laid.

Crimes against employees

Offences in this category include thefts and damage to property, physical and verbal abuse, and infringement of employees' civil and common law rights. Damage to and theft from employees' cars in Post Office parking lots was often mentioned during interviews. Some examples follow.

During one October night in 1979 a person entered the post office in Don Mills, Ontario, through an unlocked employee door and went to the basement. He opened several employees' lockers and stole a Post Office shirt and nylon jacket. He was apprehended later that night by municipal police officers and charged with theft. In August, 1980, an employee in the administrative office of the Post Office in Calgary reported the theft of \$480 from her purse during the noon break. Calgary police were notified and took a statement but the culprit was not caught.

Although no specific cases were formally referred to the Commission, allegations of intimidation and threats of violence were mentioned. These threats have apparently been made against employees who cooperate with postal inspectors, against supervisors who are too conscientious in exercising their responsibilities and against security guards who give tickets for illegal parking or demand to see employee identification cards.

Drug and alcohol offences

Most people interviewed by the Commission expressed concern about alcohol and drug abuse by postal employees, including by some at the supervisory level. Drug and alcohol use in employee parking lots was noted as a particular problem. In fact, one police force estimated that it charged postal employees with alcohol or drug offences in a plant parking lot on an average of three times per week. Most of these charges are apparently not reported to Post Office officials.

In July, 1980, as a result of an investigation by Metropolitan Toronto Police, seventeen persons were charged with drug dealing inside the South Central mail processing plant in Toronto where fourteen of them were employed.

Illegal use of the mails

Illegal use of the mails falls into two categories. The first is when the Post Office is used to send articles for which the use of the mail is expressly prohibited by law. Pornography, explosives and, in most circumstances, alcohol fall into this category. The second is when the mail is used to facilitate other actions which are contrary to law. Examples are chain letters, misleading or unsolicited invoices, unsolicited C.O.D. parcels, harassing or threatening letters, offensive writing, illegal lotteries and betting, and frauds of many varieties.

Very rarely is information on cost or loss resulting from these crimes placed on postal files. Many of the illegal acts are merely annoying or morally offensive. There is no method of determining how many people are affected by these practices or what the costs are to the Post Office and its customers.

Fraudulent schemes involving the mails obviously could have substantial costs to customers. The distribution of obscene material through the mail can become a fraud if it involves purchases which are not delivered. Unsolicited invoices and C.O.D.'s can lead to the purchase of services that customers do not want, or to payments for services that were never supplied. It should be realized that the Post Office has no authority to intervene between buyers and sellers. When a complaint about a misleading invoice is received, little can be done unless customers who have actually been defrauded can be located. Many of these cases must be dropped for lack of evidence. Investigations of illegal use of the mail can be very long, costly and inconclusive.

A classic case of fraud was concluded recently in Montreal. On November 11, 1980, a Montreal resident was sentenced to thirty-three months in penitentiary for a mail-order scheme which cheated thousands of people of \$250,000. The scheme involved a non-existent computerized chess and backgammon game featured in full-page advertisements across Canada shortly before Christmas, 1979. Customers were asked to send for the game by mail enclosing the sum of \$62.45 with an optional \$22.50 for a leather carrying case. The games never arrived. Police investigators determined that the proceeds from the fraud were used to buy gold coins. The recovered coins will be sold to reimburse victims of the fraud.

The fraudulent use of the mails in this way has enormous potential for the criminal element.

Summary

The ability to estimate accurately the frequency with which various types of offences occur is severely limited by the lack of data collected and available through existing information systems. Nonetheless, from what is available, it seems reasonable to conclude that:

- there are many points at which the Post Office is vulnerable to purposeful activity causing loss or damage;
- for each “point of vulnerability” it has been possible to identify a number of cases where security has been breached;
- many of the offences that have occurred have resulted in serious loss to the Post Office and its customers;
- the increasing amount of theft of mail and damage to mail is causing the public to regard postal employees as less than honest. This in turn is considered a serious matter by both management and labour.

The need to improve the preventive and investigative security response by the Post Office is thus evident. The determination of the most effective type of response, however, is not a simple matter. There are a number of options, ranging from the extreme of disbanding the Security and Investigation Services Branch and relying totally on public police forces, to the other extreme of complete reliance on an internal security service whose inspectors are armed with all the powers the law can provide. The appropriate response will obviously lie somewhere between these two. Whatever system is adopted, however, must be flexible. It must also be designed to accommodate a number of variables, including:

- variations in national and local loss rates;
- the cost of alternative security responses;
- Post Office revenues;
- the willingness and capability of public police forces to provide adequate service to postal installations;
- the feasibility of cooperation between management and labour;
- the complexity of investigations into losses and of preventive security programs;
- the relative training, powers, abilities, and resources available to public police forces and internal security personnel;

- future security requirements arising from electronic transmission of mail and other technological developments.

Allocation of responsibilities for security

The security objectives of the Post Office and the allocation of responsibility for achieving these objectives are set out in two departmental documents. The first, *Security and Investigation Services Organization*, was issued in January, 1972. The other is *Postal Corporate Policy Postal Standards and Guidelines*, No. 22-1-1 of September 19, 1974.

The first of these documents defines the main security objective as being "... to improve customer services and protect postal revenues". Consistent with that, the 1974 directive states,

The Department will provide and maintain adequate security measures for the protection of personnel, mail property and values within the framework of Canada Post.

This security objective is further defined by the following stated goals in the *Security Manual for Postal Inspectors*²

- (1) The department will provide and maintain adequate security so that losses are at the lowest possible level.
- (2) The department will provide effective systems to ensure the Canada Post Office meets the requirements of government policy dealing with security clearance and security of information.
- (3) The Post Office Department will ensure readiness to meet other federal government policies relating to EMO [Emergency Measures Organization] and to maintain postal services in situations of national emergencies, civil and labour unrest.

The complexity, size and geographical distribution of postal operations, with the consequent large number of points of vulnerability make it obvious that no one group can successfully assume responsibility for all aspects of security. Although certain groups (such as the Security and Investigation Services and plant security guards) have been given special responsibilities for security, the Post Office has recognized that many responsibilities must be shared by all groups within the organization. For instance,

2. The relationship between "stated" goals and the goals implicit in actual behaviour will be discussed in later sections of the report. For instance, ensuring that "losses are at the lowest possible level" would obviously require a far greater commitment of resources to security than is at present available.

All levels of employees should have a common concern for security, and numerous functional groups are involved in various aspects of security....³

and

The role of every person engaged in the Canada Post Office is not related to his individual responsibilities — there must be a sense of responsibility to the total objectives of the organization and it is therefore incumbent on all to be alert to poor security practices or indications that irregularities are or may be occurring. Staff participation is the key ingredient in creating total security consciousness. The creation of an identifiable group of specialists in the person of the security and investigations organization provides all levels of the organization with resources equipped to promptly and effectively deal with these problems.⁴

The philosophy of shared responsibility is spelled out further in directive No. 22-1-1. It defines the specific security responsibilities of various groups.

Headquarters Security and Investigation Services

- (1) provide security policy, standards and guidelines in cooperation with other functional groups and ensure implementation in the following areas:
 - preventive security programs relating to security of mail, postal funds and values, etc.
 - physical security of buildings, facilities and equipment
 - security of information
 - security clearances
 - identification card systems
 - Emergency Measures Organization;
- (2) provide security input into Headquarters programs where required;
- (3) act as co-ordinator in Canada Post Office national security programs;
- (4) act as liaison between other government departments, police departments, foreign postal administrations and other agencies involved in security;

3. Security and Investigation Services, *Postal Corporate Policy, Postal Standards and Guidelines*, No. 22-I-1.

4. Canada Post Office, *Security and Investigation Services Organization*, January 1972, page 5, para. 3.I.

- (5) provide functional guidance to regions on matters relating to security;
- (6) monitor the types and frequency of criminal offences committed against the Department for the purpose of identifying criminal trends and security weaknesses and to plan and develop programs to rectify these weaknesses on a timely basis.

Regional Security and Investigation

- 2. (1) implement national security policies, standards and guidelines in co-operation with other functional groups;
- (2) promote a climate of security awareness, alertness and responsibility within the Department among management and employees relating to criminal activity concerning mail, postal funds, values, buildings, facilities and equipment;
- (3) develop liaison and co-ordinate various activities of the Canada Post Office with other government departments, police and other security agencies within the region;
- (4) develop and co-ordinate regional preventive security programs;
- (5) provide security input into regional or district programs as required;
- (6) identify criminal trends and security weaknesses, then plan and develop programs to rectify these weaknesses.

Area Managers, Zone Postmasters and Other Travelling Officers

- 3. (1) When visiting postal facilities, they should ensure that procedure pertaining to the protection of personnel, mail, property and values are being followed.
- (2) All security weaknesses should be brought to the attention of the plant manager, station manager or postmaster concerned. The details should also be recorded in the visitor's or registration book. If appropriate corrective action has not been taken at the time of the next visit by a travelling officer, the district director is to be informed so that he can bring the matter to the attention of the postmaster or official concerned.
- (3) When security weaknesses are of sufficient importance that immediate remedial action is warranted, the officer will

immediately report the details to the district director with a copy being sent to the Security and Investigation Unit concerned.

Postmasters, Plant Managers and Station Managers

4. (1) Postmasters and managers of plants and postal stations are responsible for ensuring that the greatest possible protection for all mail, postal funds and values, etc. is provided for all postal installations under their jurisdiction.
- (2) When security weaknesses are observed, immediately report the details to the district director and send a copy to the Security and Investigation Unit concerned.

Supervisors

5. (1) Supervisors are responsible for ensuring that adequate security measures are maintained within their division or section, and where security weaknesses are observed, the matter should immediately be reported to the applicable postmaster or manager.
- (2) They should also instil a general attitude of vigilance in employees under their supervision and impress on them that security precautions exist for their protection as well as that of the Department.

By implication, the direction to supervisors to "instil a general attitude of vigilance in employees" suggests that employees below the supervisory level also have security responsibilities. There is little evidence, however, that employees have been persuaded that "security precautions exist for their protection as well as that of the Department". The educational process in the security field for employees seems to be limited to a stiff warning about the penalties for committing various offences. At a major automated postal plant in Toronto, for instance, new employees are given, and must sign, a form containing the following information:

5. In accordance with Postal Corporate Policy and Postal Standards and Guidelines all Postal Employees must be clearly informed of the disciplinary action that may be taken for offences under this instruction. Especially the section of the Post Office Act and Criminal Code under which a person may be prosecuted for indictable offences.

- (A) Employees are forbidden under any circumstances to tamper, interfere, delay or meddle with, or to place, carry or have in their pockets, clothing or personal equipment any articles of mail which is in the course of post, no matter to whom it is addressed.
 - (B) (I) Employees are forbidden to open and examine any mail which is in the course of post with the following exceptions:
 - (a) First class mail may be opened only at an undeliverable Mail Office and then only by an employee specifically assigned that responsibility.
 - (b) 2nd, 3rd, and 4th class mail may be opened and examined at the office of acceptance and then only by an employee delegated this responsibility by the postmaster.
 - (II) Employees are not permitted to intercept their own personal mail during the course of post.
 - (III) Employees are not to intercept or collect mail for others during the course of duty. Mail must be obtained during off duty hours in the same manner as any other post office customer.
 - (IV) Employees are forbidden to read the contents of postcards, newspapers, periodicals or any other mail in the course of post.
- (C) Employees may be prosecuted in the courts either under an indictable offence or a summary conviction:
- (I) *CRIMINAL CODE SEC. 314* — Every person who steals anything sent by post after it is deposited at a Post Office and before it is delivered is guilty of an indictable offence and is liable to imprisonment for 10 years.
 - (II) *POST OFFICE ACT SEC. 76(1) and 76(2)* — Every person who is guilty of an indictable offence under this Act is liable to a fine of up to \$3,000 or to imprisonment for a term of up to three years or both. Every person who is guilty of non-indictable offence under this Act is liable on summary conviction to a fine of up to \$1,000 or to imprisonment of up to two months or both.
- (D) An employee who contravenes the terms of this instruction is guilty of misconduct and is liable to disciplinary action as may be determined by Postal Management without prejudice to the taking of such legal action as the circumstances of the case may warrant.

6. Falsification of time records, the recording of another employee's time or similar alteration of or tampering with records will result in dismissal.

7. Plant and Safety rules, which are prominently displayed throughout the facilities are for the benefit and safety of employees. Disregard of these rules cannot and will not be tolerated.

At other plants employees are warned about offences in different ways. The method used is a matter of "local option" determined by the line manager of each facility. The employees' broader responsibilities regarding assisting in problem identification, prevention and investigation of offences does not appear in any of the notices brought to the attention of the Commission.

It seems fair to state, therefore, that while the directive "all employees should have a common concern for security" may be a goal of the Post Office, that goal has not been realized.

Senior management is, of course, more likely to be aware of the security responsibilities outlined in policy directives than are more junior employees. It is known, for example, that at least two regional general managers do stress to their senior functional and line managers that they must be "complete managers", accepting responsibilities for cost, service, and security. These regional general managers certainly do not treat security as being solely the responsibility of the Security and Investigation staff. This priority role for security is also reflected in the fact that the regional director of Security and Investigation is a member of the "senior management team" of each region. He participates in all monthly senior management meetings, at which security topics are quite frequently discussed. On the other hand, regional general managers admit that the case for shared responsibility for security has certainly not been fully accepted and it is still necessary to keep emphasizing the point.

Another way in which this philosophy of shared responsibility could be put into practice is through inclusion of specific security responsibilities in the job descriptions and business plans⁵ of senior managers. However, a search of the job descriptions of managers reporting directly to the regional general managers revealed only the regional directors of Security and Investigation are given particular responsibilities for security. There are, however, security-related functions in the job descriptions for regional directors of Marketing, Financial Services and Personnel.

Marketing:

... directs and supervises regional customer service activities and programs to achieve the efficient resolution of customer claims and enquiries....

5. Plans which outline major problem areas and objectives to be achieved in the next few years.

Financial Services:

... financial planning and control and internal audit techniques in managerial levels having assigned resources... developing and directing, in line with Corporate Policy, the financial audit policies, standards and objectives... by liaising with large volume mailers relative to marketing requests, new programmes to develop improved systems for the reporting of mail volumes and the safe-guarding of departmental revenues.

and

Personnel:

... assessing the need for and leading task forces in special studies concerning problems related to human behaviour such as... drug abuse... ensuring that government acts, regulations and procedures are adhered to through the setting up of control systems for the Region as well as the Districts.

A reading of the business plans of these various managers yielded similar results. Only those for the directors of Security and Investigation contain specific mention of security objectives. This seems to imply that other managers have no specific responsibilities for correcting security problems.

In fact, a review of the business plans does not mention any problem areas specifically requiring a security response. (There is reference to reducing damage, but the emphasis is on accidental machine damage.) Thus it appears that while senior managers give priority to security in the context of ongoing routine operations, they do not see it as a particular problem requiring special attention over the next few years.

Given the importance of job descriptions and other formal statements of goals and responsibilities within the public service, the above findings suggest that while the concept of shared responsibility for security may be a goal in the Post Office, it is not a widespread operational reality.

Specific security responsibilities

Security and Investigation

Responsibility for security in the Post Office Department rests primarily in the Security and Investigation function. The function consists of a National Headquarters element in Ottawa, headed by the National Director of Security and Investigation, and regional elements in each of the four postal regions, headed by regional directors of Security and Investigation. Postal inspectors

are employed in varying numbers in each region and at headquarters. Although postal inspectors may be employed at the district level, they do not report to district directors, but to the regional directors of Security and Investigation. On the other hand, the regional directors of Security and Investigation report to the regional general manager and not to the National Director of Security and Investigation, although they do receive "functional guidance" from the National Director. Inspectors are authorized under Section 48 of the Post Office Act to conduct investigations into all matters relating to the business of the Post Office.

In addition to postal inspectors the Post Office employs plant protection officers, Post Office security guards (who are public servants) and commercial security guards hired from the Corps of Commissionaires or private companies.

The Security and Investigation function is divided into two distinct areas of responsibility: preventive and investigative. The prevention element is responsible for preventive security programs for all Post Office installations and assets. At each regional headquarters, there is an 'Inspector-in-charge, Prevention', and each district headquarters has an 'Inspector, Preventive Security'.

The structure of the investigative element is more varied. In the Ontario and Quebec Regions there are 'Inspectors-in-charge, Investigations', while in the Western and Atlantic Regions, the Regional Director is himself the 'Inspector-in-charge, Investigations'. In all districts, the inspector-in-charge is also directly responsible for investigations.

Investigations are conducted into the following categories of offences:

- mail depredations;
- financial irregularities;
- break and enter robberies;
- misuse of the mails;
- money order irregularities;
- street letter box depredations;
- miscellaneous.

A detailed analysis of the Security and Investigation function is found in Chapter 3.

Plant Protection Officers

The position of plant protection officer was created in the Western Region and is used only there at the present time. Plant protection officers

are postal inspectors who derive their authority from Section 48 of the Post Office Act. However, their primary responsibility is the security of a specific postal plant and the mail which flows through it. An extract from a job description illustrates the function:

Under the broad general direction of the Inspector-in-charge, implements and maintains the security activities of the Plant, and measures, programs, analyzes and evaluates the results. Identifies areas of security weaknesses and plans and prepares and implements a Preventive Security Program to rectify the existing weaknesses. Carries out other special studies and projects as required, develops educational programs to promote security awareness of employees at all levels, patrols the premises, directs a Security Guard Force of all guards and takes corrective actions on hazards, which may cause injury or damage to personnel or property. Conducts investigations into reports of suspected illegal acts against the Post Office, prepares and submits reports, documents, court briefs, and attends Court and gives evidence as required. Monitors security related procedures and policies to ensure they are being complied with and submits detailed reports where deficiencies or otherwise are found. Performs other duties as required. The incumbent of this position will be required to work shifts and/or irregular hours.

Security Guards

Security guards are provided by the Post Office Security Guard Force (Ontario Region only), the Corps of Commissionaires and various commercial security guard companies. Their responsibilities are defined in Postal Guideline No. 51-1-8 as follows:

- (1) The primary function of security guards in the Canada Post Office is the provision of physical security measures to prevent, detect and report crimes against the Department.
- (2) However, they are also involved in the prevention, detection and reporting of other occurrences such as fires, building equipment etc., and are in contact with the public and employees at access control points.

A discussion of the use of security guards by the Post Office is found in Chapter 3.

Marketing Services

Marketing Services groups also have important security responsibilities. The regional marketing manager is charged with “the direction of Regional Customer Service activities and programs to achieve the efficient resolution

of customer claims and enquiries and attain cost reduction in the processing of mail". In support of this function, Marketing Services undertakes "security" activities related to problem identification (especially related to claims or costs of damage or loss), prevention, investigation and record-keeping.

To a certain extent, the Marketing Services can improve the way the customer uses the mail. It is an educational role, based on pointing out both the advantages of postal services (essentially, low cost and unlimited distribution) and the deficiencies of a system that must accommodate ever increasing amounts of mail. The introduction of automated equipment and large processing plants has created new problems for the prompt and undamaged delivery of mail, particularly parcels. It may not be possible to create a machine or a process that will accommodate the wide variations in package size, or the fragility of many articles that customers choose to mail. The Post Office does not enforce standards for packaging; it only recommends standards that will reduce the likelihood of damage. It has created limits to its liability for loss by restricting the insurance it makes available and by the maximum indemnity it pays to customers. It also accepts responsibility for its operational problems, however, and attempts to enhance its appeal to its business customers — who generate more than 85% of postal revenues.

Units within Marketing Services are responsible for processing claims and enquiries and providing other customers services. Claims are recorded in logs, by customer, in each zone. By this practice it is possible to identify abnormally large claims by a particular customer or in a given area; a situation which could suggest a problem, related either to customer packaging or mailing practices, or to Post Office processing. In such instances, zone managers make inquiries and examine packaging procedures. They also bear in mind that customers (and their delivery or freight services) have been known to defraud the Post Office. For instance:

- poor receiving practices in large companies may mean that mail which does arrive is not directed to the right person;
- counting bulk mailings is time consuming and is often not done when shipments are accepted at the Post Office. As a result, the number of insured packages received may not correspond to the list which accompanies them. The Post Office, however, accepts responsibility for such short mailings if a postal employee signs the bulk list.
- second class mail, billed by weight to "licensed" customers sometimes may not be properly received or identified and may get into the mail stream free of charge.

Similarly, dishonest postal employees may be attracted by the packaging on expensive or attractive products. Advertising on packages can be discouraged by zone managers if internal rifling or theft appears to be a problem. Zone managers differ in their opinion of whether losses are due to machine damage or employee theft. This may arise from differences in their basic clientele (e.g., whether bankers or electronic manufacturers) or from differences in plant problems.

Large numbers of claims of significant value submitted by a particular customer are frequently referred to postal inspectors for investigation. Unfortunately the criterion for referral is unclear as is the method employed. Customer Services managers estimate that only a small percentage of cases are referred to Security and Investigation each year and in general only when fraud is suspected.⁶ At least one zone manager makes it a practice to present each reference in written form. More often, however, a clerk or manager who suspects a criminal problem exists will "walk the request down" to Security and Investigation and discuss it informally.

In summary, Marketing Services personnel are in a position to provide valuable security information. The data they collect and analyze on claims and enquiries can help identify trends in losses and damages and indicate problem areas. Marketing Services personnel also play a preventive role by advising customers on such matters as packaging. Finally, they conduct preliminary investigations of individual claims which can identify security concerns.

Cooperation between the two groups tends to be on an *ad hoc* basis and largely dependent on personal relationships. This lack of communication may be explained by the different orientations of the two groups (i.e., sales vs. investigation and prevention).

Financial Services

As noted earlier, the job description of the regional manager of Financial Services includes a number of items specifically related to security. Financial Services has primary responsibility for investigating any matter related to financial irregularities. Security and Investigation may become involved in such investigations but they do so only on request.⁷

6. The Commission has noted with interest that within the United States Postal Service, copies of all claim forms are routinely sent to the Postal Inspection Service which also must approve all major claims for payment.

7. The Commission has noted that the U.S. Postal Inspection Service also performs management and financial audits.

Financial Services has line responsibility for the operations of the Post Office's philatelic and postage stamp depots. With the face value of the contents of these depots running into the hundreds of millions of dollars at any given time, this line responsibility adds another dimension to the security interests of Financial Services.

Personnel Services

Besides its obvious role in recruitment, training and payment of all Post Office personnel (including security employees), Personnel Services has a particular role in any security matters that may lead to the discipline of employees. It also has a role in matters arising out of difficulties with security clearances for employees. As part of the security clearance process, Security and Investigation has employees' fingerprints checked against R.C.M.P. national criminal records indices. The results of these checks are placed on personnel files. Should the results reveal a history of criminal activity, a copy is also kept on Security and Investigation files. Personnel Services, however, are responsible for making recommendations affecting employment.

Public Police

There is a close relationship between Security and Investigation and public police. In fact, there are many instances in which the involvement of either or both Security and Investigation or the public police in the initial stages of a particular criminal investigation is more or less a matter of chance. It often seems to be more a question of who happens to be informed of the offence first or who has the resources available than a matter of conscious decision. On the other hand, there does seem to be a preference both on the part of the police and the Post Office (including Security and Investigation) that internal matters should be handled, where powers and resources permit, by the Security and Investigation group. Exception to this point of view, however, is found among certain postal union groups who would prefer to restrict Security and Investigation activities, and increase the use of the public police instead.

The response of public police forces to requests for assistance varies from jurisdiction to jurisdiction. Generally it is good, although there have been some notable exceptions. Evidence was placed before the Commission which showed that inadequate attention by the public police had, on occasion, hindered investigations. This evidence is contrary to the expressed desire of the Canadian Association of Chiefs of Police that public police and not postal inspectors should be responsible for all aspects of investigation of criminal offences.

Labour Unions

There were only a few examples brought to the attention of the Commission in which the labour unions have been involved in Post Office security in a systematic and constructive way. One example was the report of the "wicket tour" conducted by the Canadian Union of Postal Workers in Vancouver District which made recommendations about the security of cash and other negotiable instruments. Individual union members have also made reports about security weaknesses from time to time but there is little written evidence to this effect.

In many postal facilities employees use their union membership to intimidate supervisors. It was evident to the Commission when investigating the security responsibilities at the supervisory level that little or no action is taken against employees for minor breaches of security. Often supervisors overlook impropriety or feign indifference in order to avoid an incident which may escalate into a conflict with a union or lead to an adjudication hearing.

Electronic mail

The Post Office now offers Intelpost and other services which reflect the growing demand for electronic mail systems. Intelpost uses space satellites to transmit information with ultimate delivery of the material, after transmission, by letter carrier. In the view of the Deputy Postmaster General, electronic mail is the Post Office's future:

...It is the natural evolution of mail from dog team, stage coach, truck to aircraft, and now into space, in trying to move it [mail] between points of location.⁸

Evidence before the Commission indicates that the Post Office has no special program designed to meet the security requirements of electronic mail. Security and Investigation has been consulted on physical security of customer outlets of such new services when they are introduced. Security and Investigation staff have neither been consulted nor do they have the necessary technical expertise to advise on electronic mail security problems. The Commission has been informed⁹ Intelpost clients are aware that it is not a fully secure service. It is the view of Post Office officials, however, that interception of messages in the course of transmission by Intelpost is a problem for the carrier, Teleglobe, and not for the Post Office.

8. Transcript p.2784.

9. Transcript pp.2764-65, 2674.

Post Office officials have further advised the Commission that they rely on R.C.M.P. expertise to audit their computer information systems, apparently at the request of Security and Investigation, and that the Post Office cannot afford to retain in-house experts for computer security.

Security and Investigation Services

Security is one of those things that is essential and, at the same time and in some respects, rather distasteful. I think we would all prefer if we could ignore the necessity of security and do away with the procedures and precautions it imposes upon us. Unfortunately, we cannot, we have no immunity from this responsibility.

Lester B. Pearson,
in the House of Commons, 1963.

To carry out its security responsibilities the Post Office has invested considerable resources of manpower, information and equipment. In order to evaluate the effectiveness of the Post Office's response to its security needs, it is first necessary to examine each of these areas of investment and evaluate the quality of the resulting security organization.

Manpower

Postal inspectors

For the purposes of this report it is necessary to examine five aspects of the manpower resources committed to staffing the Security and Investigation element of the Post Office with postal inspectors. These are:

- Number, distribution and demographic characteristics;
- training;
- job classification and salary;
- recruitment;
- responsibilities.

Number, distribution and demographic characteristics

Security and Investigation personnel work at National Headquarters and at the regional and district levels of the Post Office. The total strength of the Security and Investigation element is 98. Of these 79 are postal inspectors

and 19 are clerical and secretarial support staff. The assignment of support staff is such that 37 inspectors are not serviced and must handle their own clerical and secretarial functions. There are 16 employees at National Headquarters in Ottawa including four support staff. In addition to the National Director and the Special Advisor, Headquarters consists of three divisions responsible for a/ investigation, b/ prevention and c/ security clearance and emergency planning. Headquarters is responsible also for coordinating and scheduling training sessions for investigators.

The remaining 82 employees are divided among the four postal regions as follows: Western — 31; Ontario — 25; Quebec — 18; Atlantic — 8. The regions in turn distribute their personnel between Regional Headquarters and the various postal districts as follows:

- Western Postal Region: four of the 31 Security and Investigation staff in the region are based at Western Regional Headquarters in Vancouver (the Regional Director; an inspector-in-charge, prevention; a review and analysis officer; and a secretary). The remaining 27 are in six district offices at Vancouver (8), Kamloops (1), Edmonton (5), Calgary (5), Saskatoon (4), and Winnipeg (4). Figure 1 shows the number and distribution of Security and Investigation personnel in the Western Postal Region. All Western district level units, with the exception of the one-man Kamloops unit, have clerical support staff.
- Ontario Postal Region: four of the 25 Security and Investigation staff in the region are based at Ontario Regional Headquarters in Toronto (the Regional Director; an inspector-in-charge, prevention; an inspector-in-charge, investigations; and a review and analysis officer). The remainder work in four district offices located in Toronto (8), London (4), Ottawa (6), and North Bay (3). Figure 2 shows the number and distribution of Security and Investigation personnel in the Ontario Postal Region. The Ontario Regional Headquarters and three of the four district units have no secretarial or clerical support staff. The exception is the Ottawa unit which has one secretary for four postal inspectors.
- Quebec Postal Region: four of the 18 Security and Investigation staff in the region are based at Quebec Regional Headquarters located in Montreal (the Regional Director; an inspector-in-charge, prevention; an inspector-in-charge, investigations; and a secretary/receptionist). The remainder are at three district offices, two located in Montreal (9 and 1), and one in Quebec City (4). Figure 3 shows the number and distribution of Security and Investigation personnel in the Quebec Postal Region. None of the Quebec district level units has secretarial or support staff.

FIGURE 1

THE NUMBER AND DISTRIBUTION OF SECURITY AND INVESTIGATIONS PERSONNEL — WESTERN POSTAL REGION (TOTAL No. = 31)

Location	Number	Positions
Regional HQ, Vancouver	4	<ul style="list-style-type: none">• Regional Director• Inspector-in-Charge, Prevention• Review and Analysis Officer• Receptionist/Secretary
DISTRICT UNITS		
Vancouver Unit	8	<ul style="list-style-type: none">• Inspector-in-Charge• Inspector, Preventive Security• Postal Inspectors (3)• Plant Protection Officers (2)• Clerk
Kamloops Unit	1	<ul style="list-style-type: none">• Inspector-in-Charge
Edmonton Unit	5	<ul style="list-style-type: none">• Inspector-in-Charge• Inspector, Preventive Security• Postal Inspector (1)• Plant Protection Officer• Clerk
Calgary Unit	5	<ul style="list-style-type: none">• Inspector-in-Charge• Inspector, Preventive Security• Postal Inspector (1)• Plant Protection Officer• Clerk
Saskatoon Unit	4	<ul style="list-style-type: none">• Inspector-in-Charge• Inspector, Preventive Security• Plant Protection Officer• Clerk
Winnipeg Unit	4	<ul style="list-style-type: none">• Inspector-in-Charge• Postal Inspector (1)• Plant Protection Officer• Clerk

FIGURE 2
**THE NUMBER AND DISTRIBUTION OF SECURITY AND INVESTIGATIONS
 PERSONNEL — ONTARIO POSTAL REGION (TOTAL No. = 25)**

Location	Number	Positions
Regional HQ, Toronto	4	<ul style="list-style-type: none"> • Regional Director • Inspector-in-Charge, Prevention • Inspector-in-Charge, Investigations • Review and Analysis Officer
DISTRICT UNITS		
Toronto (Central Unit)	8	<ul style="list-style-type: none"> • Inspector-in-Charge • Inspector, Preventive Security • Postal Inspectors (6)
London (Southwestern Unit)	4	<ul style="list-style-type: none"> • Inspector-in-Charge • Inspector, Preventive Security • Postal Inspectors (2)
Ottawa (Eastern Unit)	6	<ul style="list-style-type: none"> • Inspector-in-Charge • Inspector, Preventive Security • Postal Inspectors (2) • Technician • Secretary
North Bay (Northern Unit)	3	<ul style="list-style-type: none"> • Inspector-in-Charge • Postal Inspector (1) • Postal Inspector, Trainee

— Atlantic Postal Region: two of the 8 Security and Investigation staff are located at Regional Headquarters in Halifax (the Regional Director and an inspector-in-charge, prevention). The remainder are at three district offices located in Halifax (2), Saint John (2) and St. John's (2). Figure 4 shows the number and distribution of Security and Investigation personnel in the Atlantic Postal Region. There is no support staff at either the regional or district levels.

It is apparent that the manpower resources allocated to Security and Investigation are sparse. With 53,000 full-time postal employees and 79 postal inspectors, the ratio is only 670:1. By contrast, the United States Postal Inspection Service has a complement of 2,100 inspectors for approximately 650,000 full-time employees, a ratio of 310:1. The comparison may

FIGURE 3

THE NUMBER AND DISTRIBUTION OF SECURITY AND INVESTIGATIONS PERSONNEL — QUEBEC POSTAL REGION (TOTAL No. = 18)

Location	Number	Positions
Regional HQ, Montreal	4	<ul style="list-style-type: none"> ● Regional Director ● Inspector-in-Charge, Prevention ● Inspector-in-Charge, Investigations ● Secretary/Receptionist
DISTRICT UNITS		
Montreal Unit	9	<ul style="list-style-type: none"> ● Inspector-in-Charge ● Inspector, Explosives ● Postal Inspectors (7)
Quebec Western Unit (Montreal)	1	<ul style="list-style-type: none"> ● Inspector-in-Charge
Quebec Eastern Unit (Quebec City)	4	<ul style="list-style-type: none"> ● Inspector-in-Charge ● Postal Inspectors (3)

FIGURE 4

THE NUMBER AND DISTRIBUTION OF SECURITY AND INVESTIGATIONS PERSONNEL — ATLANTIC POSTAL REGION (TOTAL No. = 8)

Location	Number	Positions
Regional HQ, Halifax	2	<ul style="list-style-type: none"> ● Regional Director ● Inspector-in-Charge, Prevention
DISTRICT UNITS		
Nova Scotia Unit (Halifax)	2	<ul style="list-style-type: none"> ● Inspector-in-Charge ● Inspector, Preventive Security
New Brunswick and P.E.I. Unit (Saint John)	2	<ul style="list-style-type: none"> ● Inspector-in-Charge ● Inspector, Preventive Security
Newfoundland Unit (St. John's)	2	<ul style="list-style-type: none"> ● Inspector-in-Charge ● Inspector, Preventive Security

not be valid in view of the marked difference in numbers of postal employees between the United States and Canada and the fact that United States postal inspectors also have additional audit responsibilities. However, the Commission has taken note that the United States Post Office has chosen to employ twice as many postal inspectors *per capita* as those employed in Canada.

A simple demographic picture of Canadian postal inspectors reveals that all have high school graduation or its equivalent, as required by job specifications. A few have some post-secondary education, usually community college courses in management skills and law enforcement. Most have worked for more than twenty years either as Post Office employees or as members of the Royal Canadian Mounted Police. The average age of postal inspectors is over 40 years and all are male.

Training

Most postal inspectors agree that their initial training is inadequate. Newly appointed inspectors are sent on a three-week basic course which is held at the training facility in Arnprior, Ontario. Completing this course is not a prerequisite for appointment. In fact, the course is only given when a sufficient number of recently appointed inspectors makes it worthwhile economically. As a result, postal inspectors are assigned to field positions with no training whatsoever. In one district, the Commission learned that a new postal inspector had been waiting 15 months for the course to be offered.

Newly appointed inspectors are trained "on the job". Regional directors of Security and Investigation usually assign them to assist and learn from the more experienced inspectors on a one-to-one basis. All postal inspectors, whether trained or not, are classified at the same pay level (AS3), although some regional directors make a working distinction between "senior" inspectors who have completed the basic course and have at least two years field experience, and "junior" inspectors who have not.

The index to the teaching material for the basic training course refers to fourteen areas of study:

1. Post Office Act
2. Financial Administration Act
3. Public Inquiries Act
4. Statutes

5. Regulations pertaining to Solicitation by Mail
6. Prohibited Mail Regulations
7. Mail Receptacles Regulations
8. Undeliverable and Redirected Mail Regulations
9. Complaints concerning Improper Use of the Mail
10. Lottery Schemes (Authorized)
11. Manual of Operating Procedures concerning Undeliverable Mail
12. Manual of Operating Procedures concerning Revenue Post Offices
13. Collection of Shortages and Other Debts Due the Crown
14. Financial Audits/Inspections/Internal Audits

The timetable for the course indicates that it comprises approximately 90 hours of instruction over a period of 15 days, and that the course terminates with a brief test. Lecturers include not only Security and Investigation personnel, but also representatives of the judiciary and the R.C.M.P. An examination of the curriculum reveals that two days each are allocated to illegal mail and security surveys. Investigation of depredations gets one day while financial audits, inspections and internal audits combined get two days. Two of the inspectors' most frequent and vital activities are allocated considerably less instruction time. Report writing is covered in half a day, while "approaching people for interviews, note taking and techniques of interrogation", areas of concern both for good investigative practice and for good labour relations, are only allocated approximately two hours.

The first advanced training course for postal inspectors was presented in February, 1980. The course lasted for five days, with a total of approximately 30 hours for instruction. Instructors were drawn from Security and Investigation Headquarters, Post Office legal advisors, the Crown Attorney's office and the Canadian Police College. The curriculum was identical to that of the basic course except for the omission of "Statutes" and "Collection of Shortages and Other Debts Due the Crown". The Commission was informed that more inspectors would be given the advanced course when time and financial resources permit. There is no mandatory requirement for this refresher course at the present time.

During 1979, other training completed by Security and Investigation personnel included:

- fraud and basic criminal investigation courses held at the Ontario Police College;

- fraud investigations, internal theft, external theft and audit courses held at the United States Postal Service College;
- x-ray equipment and letter bomb scanning held in Ottawa;
- security officers course, held at Canadian Forces Base, Borden;
- senior police administration course, security analyst supervision course and security survey course held at the Canadian Police College, Ottawa;
- wartime emergency plans course held at Arnprior, Ontario.

A number of Public Service Commission administration and management courses have also been taken by postal inspectors as part of individual career advancement programs.

Job classification and salary

Security and Investigation personnel are classified in the Administrative Services (AS) category of the public service. This broad and heterogeneous classification encompasses other categories of personnel whose jobs are not comparable with those of postal investigators, such as unemployment insurance officers and hospital administrators. The AS grouping is considered a "category of convenience" into which Security and Investigation personnel are grouped because the Public Service does not provide a specific job category for their type of function. In addition, most postal inspectors and some Post Office management personnel argue that within the AS category, Security and Investigation personnel are underclassified relative to their job responsibilities, and that the under-classification extends from the National Director of Security and Investigation to the investigators in the field.

In the present organizational structure of the Post Office, five assistant deputy postmasters general report to the Deputy Postmaster General. The National Director of Security and Investigation reports to the Assistant Deputy Postmaster General, Operational Services.

The National Director of Security and Investigation is one of only two national directors in the Post Office who are classified in the Administrative Service category. Most of the others are in the Senior Executive (SX) category. This affects the authority and status of the position. It also affects the salary. A position which is underclassified is also underpaid. The AS category has eight levels, AS1 to AS8. The National Director of Security and Investigation's position is classified AS8. The SX category has four pay levels, the lowest being SX1. The difference between the top of the AS8 and the top of the SX1 salary range is over \$7,000.00, in favour of the SX1.

Postal inspectors are classified AS3. Their salary range overlaps that of Postal Supervisors 2 (Sup2) and Postal Supervisors 3 (Sup3). A Sup2 might, for example, be an operations supervisor responsible for a section of 10 to 15 postal clerks manning mail processing machinery at an automated plant.

Inspectors-in-charge are classified AS4. Their salary range overlaps that of Sup4, Sup5 and Sup6. Depending on the size of the facility, an assistant postmaster might be a Sup4 or Sup5. Another comparison can be made with the Personnel function. The lowest paid personnel officer on regional staff has a higher salary than an inspector-in-charge in Security and Investigation.

A more pointed comparison can be drawn between postal inspectors and postal clerks. Under the current collective agreement a postal clerk earns nearly as much as a postal inspector who has considerably greater responsibility, and with a limited amount of overtime can earn more.

The present job classification of a regional director of Security and Investigation is junior to that of his colleagues on the senior management team, and his salary is consequently lower. For example, in the Ontario Regional Headquarters, the Director of Operational Services and the Director of Marketing are classified as PM7 (\$33,600 — 41,500) whereas the Director of Security and Investigation is classified as AS6 (\$30,485 — 34,035). In the Atlantic Region, the Director of Operational Services is classified as PM6 (\$32,607 — 36,809). The Director of Security and Investigation is an AS5 (\$26,215 — 29,236).

The Commission also noted that a large number of positions in the Post Office are held by staff on an "acting basis" and there are a large number of "term" appointments. This was noted particularly in the Security and Investigation function. This type of staffing inevitably has significant repercussions for the division in which it occurs and for the individual holding the appointment. For Security and Investigation, as for any other function, doubts about the permanency of the régime hamper the promulgation and implementation of business.

The title 'National Director' is something of a misnomer. The degree to which authority is vested in the four regional general managers in the decentralized structure of the Post Office means that national directors rely on persuasion rather than direction in dealing with regional operations. As one senior employee told the Commission, "only one man tells a Regional Manager what to do: that's the Deputy Postmaster General". This poses serious questions about the necessary independence of the Security and Investigation function from general Post Office management. These questions will be dealt with later in the report.

Recruitment

Before the decentralized structure was adopted by the Post Office in 1972, all postal inspectors were career employees recruited from within. The one exception was the appointment of a former police officer as Chief of Security and Investigation in January, 1970.¹ Even today, all postal inspectors in the Ontario and Quebec Regions have been recruited from within the Post Office. On the other hand, the Western Region has been recruiting investigators from the Royal Canadian Mounted Police since 1972 and, more recently, the Atlantic Region has recruited from both the R.C.M.P. and the military police.

The arguments usually recited in favour of maintaining a policy of internal recruitment are that:

- postal operations are extremely complex and require many years of experience to be fully understood;
- postal workers, whether letter carriers or clerks, by their experience of the system, are more aware of its security vulnerability than are those who have not worked in the system;
- police officers are set in their ways and may not be sufficiently flexible in their approach to Post Office investigations to be effective.²

Salary, prospects for advancement and hiring practices all have a bearing on employee morale. Interviews with Security and Investigation field staff revealed concerns about the effects on advancement prospects of National Headquarters positions being filled through hiring from outside the Post Office.

The case in favour of recruiting trained police investigators as postal inspectors has been made by the Western Region in defence of the policy which it has adopted. The arguments run as follows:

- postal inspectors whose experience was totally within the Post Office were reluctant to investigate unfamiliar crimes or to undertake complex investigations;
- investigations by internally recruited inspectors were amateurish, lacking in direction and coordination, were not comprehensive and were not pursued to a satisfactory conclusion;

1. Paul Boisvert, National Director of Security and Investigation until April 1980 and now Special Advisor on Security and Investigation.

2. This view is supported by the United States Postal Inspection Service and certain corporate security organizations who have stated that many police officers have to be "untrained" before being effective.

- instead of looking for possible criminal violations, postal inspectors tended to attribute losses to other reasons;
- internally recruited inspectors were reluctant to become involved in criminal prosecutions and to appear in court to give evidence;
- there was an inability to assess the impact and frequency of crimes against the Post Office and to set priorities in investigations and preventive security programs;
- preventive security was disregarded, only an investigative response was considered.

To carry out its Security and Investigation mandate effectively, the Western Region adopted a policy of hiring some inspectors with postal experience and others with police experience. To implement this policy, two categories of persons were actively recruited. The first were those who had considerable operational or financial supervisory experience in the Post Office. Second were those with wide investigative experience in an accredited police department. Today, there is an effective blend of both categories in the Security and Investigation complement of the Western Postal Region.

Although there is a degree of support in all regions for the recruitment of experienced law enforcement officers, there is no recognized national policy in this regard. Regional general managers set their own staffing criteria, with advice only from the National Director of Security and Investigation.

A major factor affecting the calibre of recruits into Security and Investigation is the matter of job classification, and its effect on salary level and on an identifiable career path. The position of postal inspector was once relatively well paid and had sufficient authority and prestige to make it attractive to senior Post Office employees. Today the position has a salary range that is a disincentive to a senior employee considering crossing over into Security and Investigation. Beyond salary considerations, a potential recruit might well decide that the current career path does not provide much scope for advancement. Within a field unit there are two job classifications: AS3 and AS4. The top regional classification is AS6 and the top national classification is AS8.

Given the drawbacks to the position, one might ask what motivates a person to work as a postal inspector. In some cases, inspectors feel a strong identification with the Post Office as an institution to be defended rather than with the Post Office as an organization of fellow employees. In other cases, there is a strong identification with the Security and Investigation function, to the point of seeing it as "a big part of keeping the Post Office alive". Such beliefs have a role in motivating an employee in the performance of his job.

Postal inspectors also function with a considerable degree of autonomy and with frequent opportunities for decision-making. To some these are appealing aspects of the job.

A few respondents indicated they "get respect" as postal inspectors. While it is apparent that career advancement in Security and Investigation is limited, some inspectors believed that Security and Investigation experience increased their opportunity for advancement in other sectors of the Post Office. Their positions bring them into contact with all levels of management, a situation which could presumably affect their ability to move into other management positions. On the other hand, some concern was expressed that the practice of using a Security and Investigation appointment as a "stepping stone" to senior management positions had serious implications for the independence of Security and Investigation from general management, a matter which is discussed later in this report.

Responsibilities

The job descriptions of the regional directors of Security and Investigation do not vary in substance from region to region, although there are variations in wording. Under the direction of the regional general managers, they develop, plan and administer the Security and Investigation programs for all postal installations within their region. They direct and coordinate the activities of postal inspectors at regional headquarters and in the districts in both investigations and preventive security. They may conduct investigations themselves into unusual or contentious cases. Perhaps the most succinct role definition is found in the business plan of the Director of Security and Investigation for the Atlantic Postal Region.

As a contribution to maintaining a high standard of Postal Service, to provide on a Regional basis, a Security and Investigation Service to prevent losses due to internal and external factors and to provide and ensure the maintenance of an effective Preventative Security Program.

From the Western Postal Region, a clear breakdown of time spent on various responsibilities by the Director, Security and Investigation, is found in the job description:

Managerial Responsibilities 45 %

Plans and directs the security and investigations program in the Western Region....

Specific Security or Investigational Projects 25 %

Plans develops and implements specific security and investigational projects and programs....

Advisory Function to Senior Management 15%

Advises and provides a consultative capability to senior management levels concerning the safety of employees, the mails, postal facilities of all classes, funds and values, restricted information....

Members of Management Teams 10%

Participates as a member of the Regional General Manager's and the [National] Director Security and Investigation Services Branch Management teams....

Other Duties 5%

The duties of a postal inspector are also described in a consistent manner throughout the four postal regions. From the Atlantic Region comes the statement:

The overall objective of Postal Inspectors is protection of the mails. This responsibility includes both preventive and investigative aspects.³

The job description of a postal inspector from the Quebec Region tells us that he:

- conducts investigations of criminal offences which are against or directly related to the Post Office, such as mail theft, cashings of stolen or fraudulently raised money orders, etc., whether committed by internal or external sources;
- performs investigations and other functions related to matters of internal security within the Post Office;
- conducts investigations into financial shortages at Post Offices of all classes;
- enquires into the financial status of Post Offices;
- assists in the maintenance of a preventive security program.

In terms of basic requirements, other job descriptions call for:

- demonstrated supervisory capabilities;
- experience in financial procedures or operational procedures or transportation operations;
- experience in report or letter writing;
- possession of a valid driver's licence.

3. Atlantic Region written presentation to the Commission p. 6.

Also required is the ability to:

- interview, guide and instruct re Post Office directives;
- prepare concise reports;
- effectively plan and organize cases for investigation;
- make decisions for corrective action on the spot, when necessary;
- direct and advise line management on investigation matters;
- train new employees.

In describing their own jobs, postal inspectors present a wide range of interpretations of their duties. Some give top priority to safeguarding the mail; others to protecting Post Office "employees, buildings and revenues"; others say that although the job description refers to security the primary activity should be investigation.

Some postal inspectors raised the problem of jurisdiction. They commented that Security and Investigation gets involved in situations where the investigator is expected to decide whether the matter comes under their jurisdiction or that of management or of the public police. At this point the Commission only wishes to note that it is aware of cases which were investigated by postal inspectors because of probable offences against the Criminal Code, the Financial Administration Act or the Post Office Act but which were not reported to the public police. Disciplinary action was taken by management instead and prosecution was not initiated in the courts. While this practice is not unlike that followed by private corporations, the Commission has also noted that a much larger number of citizens are prosecuted for crimes against the Post Office than are postal employees.

Security guards

In addition to postal inspectors, the Post Office invests in manpower resources by using security guards. Security guards may be employees of the Post Office, members of the Corps of Commissionaires or employees of private companies which have contracts to provide the services of security guards to the Post Office. Only the Ontario Region hires security guards as postal employees. The Region created its "security guard force" to resolve the new problems of physical security and employee safety brought about by the construction of very large, automated mail processing plants. At Gateway Mail Processing Plant in Mississauga and at South Central Mail Processing Plant in Toronto the plant managers have been delegated responsibility for the property and physical security of their own plants. Security guards at

these plants are under a superintendent of security who reports to the plant manager. Security and Investigation officers give professional advice about security matters when requested to do so, but they do not exercise direct responsibility for security of these plants.

Security guards at Gateway and South Central are responsible for the following activities according to position summaries:

- controlling the entry and exit of Post Office personnel, visitors and vehicles;
- directing traffic within the plants;
- patrolling the buildings and grounds for purposes of fire protection, safety and security;
- inspecting mail which has been deliberately damaged or rifled and arranging for further investigation of such incidents;
- reporting on hazards which could cause injury to personnel or damage to mail, buildings, equipment, supplies and vehicles from causes such as fire, theft and vandalism;
- monitoring the movement of Post Office personnel and visitors entering, leaving and within the plant, computer rooms and registration areas to ensure compliance with the regulations governing such movement;
- watching and checking audio and visual signals and alarms which indicate the malfunctioning of equipment, and the occurrence of fire, burglary, intrusion and hold-up and monitoring activities by means of closed circuit television;
- performing other related duties as required.

These security guards receive a two-week 'Protective Security Training Course'. In addition most have had prior training or employment in a related field before being hired by the Post Office.

At all plants other than Gateway and South Central, security guards are provided, when considered necessary, by the various Corps of Commissionaires and by private security guard companies. Although their duties vary with the size of the postal installation to which they are assigned, the responsibilities are generally similar to those of the Post Office security guards described above. Except at the larger plants in Ontario, security guards are the responsibility of the Security and Investigation function. At the larger Ontario plants, however, they report to the plant management.

The Corps of Commissionaires, which employs only former members of the Canadian Forces and the R.C.M.P., has established a sound national security guard training program for its members in recent years. Security

guard companies, on the other hand, in spite of repeated efforts by the Federal Government to improve the standard of training specified in its contracts, do not generally provide guards with an acceptable level of training.

One of the difficulties which managers face in trying to improve the standard of training of security guards is the low level of wages paid. The basic wage of Post Office security guards is \$6.74 per hour. With seniority it can rise to \$7.99 per hour. The hourly rate for members of the Corps of Commissionaires is between \$4.70 and \$5.55 depending on rank. Contract security guards earn much less. Although it varies, the basic rate for security guards from private companies is seldom more than \$3.25 per hour. In contrast, mail sorters receive a basic hourly wage of \$8.75 per hour and cleaners hired on contract by the Department of Public Works in the Quebec Region receive more per hour than some contract security guards.

The Commission has also been made aware of other difficulties faced by security guards in carrying out their duties. Harassment, bullying and the use of obscene language by postal employees is not uncommon whenever security guards try to do their job. In particular, it has been reported that members of the Corps of Commissionaires on duty at the entrance to the Alta Vista Postal Plant in Ottawa have been subjected to much unpleasant and unfair treatment including threats of physical harm. There is little evidence that plant management has attempted to prevent this kind of abuse.

Resources

Information Sources

Forms have been designed for use in collecting data for use by Security and Investigation. The Master Responsibility Assessment form records the outcomes of investigations in terms of how many individuals were prosecuted or disciplined. Also recorded is whether the individuals concerned were postal employees or members of the public at large, and whether these persons were adults or juveniles. The form records data by district units and is sent by the regions to National Headquarters in Ottawa.

Information from the Master Responsibility Assessment form is transferred to District Unit Master Statistics forms under seven categories of events:

1. Mail Depredations
2. Financial Irregularities

3. Robberies and Break and Enters
4. Illegal Use of the Mails
5. Money Order Irregularities
6. Box Depredations
7. Miscellaneous

The type of offences investigated under these various categories will be discussed later in this chapter.

The Master Statistics form includes information on the location of events, and for certain types of offences, dollar values and the resolution of cases. Each Security and Investigation district unit completes a Master Statistics form monthly and forwards it to Regional Security and Investigation Headquarters. There the data is compiled on to a Regional Master Statistics form and forwarded to National Headquarters where monthly, quarterly and annual statistical reports are prepared.

Occurrence Report forms have been designed to record information about specific events that have come to the attention of Security and Investigation Services at the district level. In a sample of Security and Investigation Unit files for 1979, however, the Commission found that less than 50% contained Occurrence Reports. A similar situation was found with regard to the personal notebooks which are supposed to be kept by each postal inspector. Each individual investigator is expected to chronicle his work-related activities and experiences in daily entries in his notebook which are to be examined monthly by his inspector-in-charge. By following this procedure an invaluable body of information would be developed over time. The Commission found, however, that the care with which notebooks are used varies from district to district. In fact, in certain districts in Quebec Region notebooks are not used at all.

Other Security and Investigation information resources are:

- *Manual of Information for Postal Inspectors*;
- *Security Manual for Postal Inspectors*;
- Instructional Information System and Postal Communications Guidelines related to Security and Investigation Services;
- survey forms and security checklists generated by physical and operational security surveys;
- Post Office corporate policy statements and directives;
- claims and enquiries data from the Marketing Services.

Security and Investigation units review information on criminal records that is revealed by R.C.M.P. fingerprint checks on employees. The R.C.M.P.

computer print-out of criminal record data is returned to National Security and Investigation Headquarters. The fingerprint form, however, becomes part of the individual's personnel file.

Within the Post Office, Security and Investigation can draw on information resources of the accounting and audit functions. Individual employees who may or may not be known to the investigator may also, from time to time, provide information. Such information is often informal, at least initially, in the sense that it is undocumented and conveyed orally. Also, information from external sources, possibly from individual or commercial Post Office customers, may be relayed by telephone or in correspondence.

A formally defined information resource is available through various R.C.M.P. facilities. Postal inspectors may utilize the data resources of R.C.M.P. fingerprint records, handwriting analysis services, the crime index of data on criminal *modus operandi*, the R.C.M.P. Document Examination Section and the Fraudulent Cheque Section.

Membership in specialist organizations such as the International Association of Credit Card Investigators and the Commercial Security Association, may yield the individual postal inspector valuable investigative or methodological data.

Inspectors are in contact with all levels of public police — federal, provincial, regional and municipal. Exchanges of information, formal and informal, are ongoing. Postal inspectors, however, are not admitted to membership in police intelligence associations such as the Criminal Intelligence Service Canada or the Canadian-American Law Enforcement Organization. These organizations are reserved for officers of accredited public police departments.

Equipment

In establishing measures to protect the interests of the Post Office, personnel with responsibilities for security, both physical and non-physical, make use of a range of security-related equipment and hardware. This equipment is fixed or mobile. It may also be readily accessible Post Office property or it may belong to some other organization from whom access is sought. One type of security hardware owned by the Post Office is closed circuit television (CCTV). Three systems are currently in use.

a. Process CCTV

This system is used to observe machine and conveyor operations which are not readily visible to operators in order to prevent jams and to aid in

production scheduling. The system is operated by production planning and control staff and by operation supervisors. Cameras are directed at the automatic processing of mail and not at postal workers. Postal inspectors have no access to Process CCTV.

b. Security CCTV

This system is used for plant security. Cameras are trained on parking lots, entrances, building exteriors and high security areas, such as entrances to registered mail areas. The system is intended to protect employees, their property and postal plants as a whole from internal and external criminal activity. The system is operated by security guards. Security CCTV cameras are not directed at employees at work.

c. Investigative CCTV

This system is used for investigation by postal inspectors who are the only ones having access to it. The system is operated only when there is reason to believe that criminal activity is taking place. The Commission has been assured that Investigative CCTV is not used to evaluate the work performance of employees and no evidence has been found to the contrary. A full description of Investigative CCTV will be found in the next section on surveillance techniques.

Other Post Office owned equipment used by postal inspectors includes two-way paging systems, car radios for transmitting and receiving messages, (official Post Office cars are not provided) and cameras for making photographic records relevant to the Security and Investigation function. In the Western Region, a specially equipped observation van is also available.

Postal inspectors may consult the Security Equipment Section of the R.C.M.P. for information about, and security assessment ratings for, such items as locks, padlocks, filing cabinets, safes and other physical security material.

With the exception of electronic eavesdropping equipment, the possession of which is regulated by the Criminal Code, technical equipment may be borrowed from public police departments to assist in criminal investigations.

With regard to the use of lie detector equipment, the *Manual of Information for Postal Inspectors* states:

The Post Office Department does not advocate the use of lie detector tests in the course of investigations conducted by Postal Investigators. However, where a particular case has been referred to the Police, and the Police wish to make use of lie detector

equipment, the postal investigator will take the position that such steps are being taken by the Police on their own initiative and do not relate to any suggestion or request for same by any postal official.

Several cases where public police have used lie detectors in the course of investigating postal employees were made known to the Commission. No evidence was presented, however, which indicated that postal inspectors were directly involved.

Surveillance techniques

Post Office policy on observation systems is set out in "Canada Post Corporate Policy 3-3" which states,

Postal facilities shall include observation capabilities known as an observation system according to criteria. Such systems shall be used only by postal inspectors appointed pursuant to Section 48 of the Post Office Act solely for the purpose of detecting and/or preventing criminal acts affecting the Canada Post Office. They shall not be used for any purpose other than stated above nor by any other postal personnel.

Post Office Guideline No. 074-05D-1 on observation systems defines postal facilities and observation as follows:

- (1) Postal Facilities — means any installation staffed by post office personnel where mail is handled, transferred or processed or where postal business is transacted.
- (2) Observation System — means a physical, optical or electronic system installed on a permanent or temporary basis, or a combination of these, to permit discreet observation of selected areas.

Observation galleries have been used in postal facilities for decades. A gallery is an enclosed passage-way approximately one metre wide and two metres in height installed above working areas in order to provide visual coverage. Lookout ports made of one-way glass are located in gallery walls, floors and breakout doors. Entrances are situated to provide access to the galleries without being seen. They are usually located in areas under the control of postal inspectors, such as a Security and Investigation office within a postal plant.

With the installation of more mechanical mail sorting machinery and the construction of new and larger facilities during the 1970's, it became increasingly difficult to build galleries which had an unimpeded view of working areas. The obvious solution was the installation of closed circuit

television. As far as Post Office management is concerned Investigative CCTV is "an electronic eye" substituting for a human eye. It is described as an electronic detection system which permits a postal inspector using television cameras and a monitoring console to observe suspected work areas. The cameras are concealed in translucent domes in the ceilings of vulnerable mail processing areas such as parcel repair, manual and mechanical sortation, loading docks, and undeliverable mail offices. Cameras are also used to supplement observation galleries where mechanical processing equipment obstructs the view. Cameras are only operated when an investigation into possible criminal activity requires observation of a specific area where the suspected crime may be taking place. Evidence when detected is recorded on video tape.

Evidence presented to the Commission indicates that access to Investigative CCTV is indeed limited to postal inspectors. Use by postmasters, supervisors or other personnel is prohibited. Access for equipment maintenance is by the permission of and under the control of postal inspectors only. Keys that provide access to observation systems are strictly controlled. Similar controls are also apparently applicable to access to the non-electronic observation gallery systems which are still in use in a number of postal facilities.

The effective use of Investigative CCTV has been reduced by several factors. As yet, there are no comprehensive maintenance procedures. The equipment requires controlled humidity conditions which are in place but its sensitivity to humidity also requires that it be operated for at least two hours a week to keep it in acceptable running order, and this is not always done. No training program on the use of CCTV was provided by either the manufacturer or the Post Office and inspectors have had to teach themselves how to use the system. "Mimic boards" for use in conjunction with the CCTV monitoring screens have not yet been installed. A mimic board informs the observer which camera to switch to in order to continue observing a person as he moves out of range of one camera into that of another.

The replacement of gallery surveillance by Investigative CCTV has not been well received by the postal unions. Post Office management claims:

investigative CCTV acts as a strong deterrent from internal and external criminal elements. It protects the majority of employees from unwarranted suspicion. It reduces temptation and opportunity to commit criminal offences.⁴

4. Investigative CCTV for Canada Post, 1980-03-26, p. 12.

The Canadian Union of Postal Workers, however,

is determined to eliminate the threat of its membership being subjected to electronic surveillance.⁵

The Commission has been unable to ascertain whether there have been any research studies conducted on the effect of Investigative CCTV on employee morale. Neither the Post Office nor the postal unions have knowledge of such research. Some initial studies of CCTV in the work place have been done by the Ontario Ministry of Labour but this work is not directly applicable to Investigative CCTV as such. What is clear is management's determination to install Investigative CCTV where it considers it necessary and the unions' equal determination to prevent its further proliferation.

There are a number of questions which arise concerning the Post Office decision to install Investigative CCTV in new processing plants. Perhaps the most important is the question of cost-benefit studies from a security point of view. The Deputy Postmaster General in reply to a question about the decision making process had this to say in testimony before the Commission:

...I will take you back to Toronto, which is the first time we made a decision to move, on the new plants in Toronto.

The process would be one of making the initial assumption that you were going to have... the power of observation. Now, you then take a look at what alternatives you have for powers of investigative observation. On the basis of the body of knowledge in the world, galleries are traditional, in the U.S. and Canada, at least, and in many other countries.... Then, in terms of cost benefit, given the assumption that you are going to go for observation, your cost analysis is a trade-off analysis between the cost of building galleries versus the cost of the installation of some degree of CCTV capabilities. That was done for Toronto. It was done on the basis of what would you have to do to modify the design, to make galleries effective, so that you could use them... for the cameras, and a pair of binoculars, or operators in there, with two views, to see what was going on in particular suspected theft.... The new processes, which were heavy conveyors moving down, coming down from several floors from the ceiling, was that you had solid machinery across the view level of a gallery. The only way you could, in effect, make galleries effective, was to put airspace between the floor of equipment, and all those conveyors, which meant you had to raise your whole building height about 8 to 10 feet. Now, the cost of the steel structure of shifting the whole building, that sort of thing, was the cost benefit kind of study that took place. Again, I am not really saying CCTV versus nothing, but CCTV versus galleries. That is the whole story.⁶

5. *Negotiations 80 — A Contract for Postal Workers*, March 26, 1980, p. 106 (A CUPW document).

6. Testimony p. 2706-09.

The other important question relates to the long term maintenance costs of CCTV. On this subject the Deputy Postmaster General said,

Well I am not aware that they [the costs] are horrendous. They are on-going. I recognize it. None of them, either gallery nor CCTV, is a continuous operation.... What you are doing with CCTV is basically, once your camera is up, you are recording what is going on, and you do not need the same work force, you can use them for other investigations. So, there is a trade-off in the actual costs of doing the investigations.

The Commission is well aware that the use of Investigative CCTV is an emotional issue. A further analysis is found later in the report.

Other techniques

Other techniques available to postal inspectors for investigative use are:

- Testing. Placing test items in the mail stream, sometimes using fluorescent powder in conjunction with them.
- Charting. Comparing the location and time incidents occur with attendance records.
- Undercover operations in postal facilities.

PREVENTION

A common definition of prevention in criminal justice literature is "action taken to deter, correct or preclude potentially harmful behaviour". In contrast to control, prevention is oriented toward actions that have not yet taken place. More specifically, deterrence has the objective of discouraging the potential offender by increasing the chance of being caught and penalized.

As with any organization, the Post Office takes into account other factors in addition to security when developing a crime prevention effort:

An effective security program is 'Crime Prevention' and the taking of reasonable precautionary steps to minimize operational disruptions. Preventative security must support the management team with controls and security measures that will prevent and reduce losses while being compatible with operational procedures and budgetary restraints. (Security and Investigation Services Organization, January 1972, para. 1.6)

In the 1977 *Security Manual for Postal Inspectors*, preventive security is dealt with under two major heads: personnel security and physical security, or "target hardening". Personnel security activities include controlling access to sensitive information; providing security and reliability clearances; and monitoring employment of persons with criminal records. Physical security

activities include issuing identification cards, passes and badges; instituting theft and pilferage control systems; adopting minimum standards for facilities and security equipment, such as vaults, alarm systems and negotiable containers; implementing mail screening processes for letter and parcel bombs; and conducting security vulnerability surveys.

Headquarters, Security and Investigation

Headquarters, Security and Investigation Services in Ottawa are established to:

Provide security policy, standards and guidelines in cooperation with other functional groups and ensure implementation.... [of] preventive security programs relating to security of mail, postal funds and values;⁷

As discussed elsewhere in this report, these standards and guidelines established at Headquarters are, in effect, only recommendations. The regions decide to what extent they will be implemented.

Headquarters is also expected to:

Monitor the types and frequencies of criminal offences committed against the Department for the purpose of identifying criminal trends and security weaknesses and to plan and develop programs to rectify these weaknesses on a timely basis. (Policy Directive issued by Security and Investigation Services, September 19, 1974)

Statistics from the regions are monitored with a view to establishing prevention techniques to counter specific risks. For example, "negotiable containers" to hold postage stamps, money order blanks and cash, were developed for sub-post offices, and over 600 put in place after analysis of the break and enters and theft of money order blanks. Similarly, a program to lash street mail receptacles to convenient posts was developed by Headquarters Security and Investigation to reduce vandalism and theft. In general, then, Headquarters is responsible for the development and promulgation of preventive security measures for all facets of postal installations and equipment. In addition, Headquarters staff are responsible for coordinating security clearances for departmental personnel, fingerprint checks, identity card policy, security of official keys, and electronic data processing security for the Post Office.

The Commission has been made aware, however, of numerous instances where the adequacy of prevention programs can be called into

7. Policy Directive issued by Security and Investigation Services, September 19, 1974.

question. In almost all these a lack of priority allocation of funds or lack of management interest, or both, has resulted in losses which might have been avoided.

On April 16, 1977, thieves entered the Alta Vista processing plant in Ottawa and escaped with travellers cheques, gold, passports and commercial drugs valued at between three and six million dollars. The thieves gained entry into the plant by breaking a glass window. In spite of recommendations for an alarm system which had been made by Security and Investigation, the building had no alarm system and only one unarmed guard was on duty in the building during the robbery.

In Winnipeg, postal inspectors have expressed concern over the lack of response by management to basic security problems. In January, 1978, Security and Investigation recommended that security screens be placed on the windows of a post office which could be opened from the outside. No action was taken to install the screens until the middle of 1980. By that time the post office had been burglarized four times, resulting in damage and theft of money and goods. After each burglary, a further report was sent to the area manager concerned by postal inspectors.

In Lower Sackville, N.B. on April 10, 1977, a break-in occurred resulting in a loss of \$4264.63 in cash and stamps. One of the recommendations made by the postal inspector investigating the case was that an intrusion alarm system be installed in the vault. In August, 1980, another break and enter occurred at the same post office resulting in the loss of \$21,000 in cash and stamps. No intrusion alarm had been installed.

In some smaller post offices keys are distributed to more postal employees than is necessary for the functioning of the office. The Commission discovered examples of vault combinations being written on walls to assist the memory of the postal employees charged with opening the vaults each day. Construction of certain post offices with cinder blocks makes entry a simple matter for thieves. It was made clear to the Commission that little thought was given to security concerns when these post offices were constructed by the Department of Public Works. Postal inspectors were not consulted.

One other specific security problem deserves special mention. In certain post offices, the clerk in the registered mail area, where valuables might be stored overnight, does not have an outside line on his telephone. The telephone connects the registration area to the supervisor's office, but at night when the supervisor has gone home the clerk has no way of contacting the outside world for help. Repeated requests for an outside telephone line have been ignored.

These are but a few isolated examples of lack of concern for preventive security. The Commission has been informed of hundreds of similar incidents.

Regional Security and Investigation

One inspector in each Regional Security and Investigation office is in charge of prevention. The following job description supplies an example of the formal breakdown of duties and responsibilities related to prevention:

- *manages overall preventive security programs in the region* e.g., monitoring preventive security activities and programs of units, determining preventive security requirements, planning and exercising control over regional preventive security activity to ensure effectiveness, efficiency and quality of work.
- *specific regional security projects* e.g., identifying areas of weakness and analyzing probable causes, planning and formulating effective counter-measures to rectify identified security weaknesses.
- *security survey requirements for large plants and Post Office* e.g., preparing user requirement documents covering security requirements at new and renovated postal facilities at early planning stages, participating in building project teams to provide advice and guidance in implementing requirements into construction, assessing new security equipment and preparing test programs to evaluate this equipment.
- *employee education* including identifying areas where security can be improved through greater employee participation in and awareness of security.

While the regional inspector-in-charge of prevention should be consulted when new facilities are being designed or old ones renovated, or when changes in procedures are being planned (for example, in mail dispatch), this is not always done. Security and Investigation may not be contacted until after decisions affecting physical security are already made. They are not always consulted at the "early planning stages". False economies made by persons unfamiliar with security requirements, are not unknown (for example, insecure doors which are less expensive than secure ones). Coordination in planning new facilities and procedures appears to be lacking.

Little emphasis is currently placed on employee awareness (one aspect of "personnel security"). While some slide presentations and other material are available, there is no consistent effort to educate employees about security.

Preventive security surveys are done irregularly and Security and Investigation officers "try to visit" one sub-post office a week in order to inform the staff about security and to examine the precautions taken. Visits are often difficult to arrange, however, since postal inspectors are not equipped with vehicles by the Post Office.

Some functions of postal inspectors could, however, be considered related to prevention — for example, spot checks on postal stations and processing plants. Inspectors may go unannounced to postal stations, in order to see if they are challenged and asked for identification. One line supervisor in a processing plant estimated that an inspector may be seen about once a month.

No particular inspector appears to examine, on a routine basis, statistical reports in order to obtain a general awareness of "crime patterns" and the response by the Security and Investigation units to reported incidents. While statistics are sent to Security and Investigation Headquarters, these are not considered as a valuable source of information for preventive activity by field units. This basic element of preventive security — identifying specific security weaknesses and then devising strategies to overcome them — does not appear to be systematically carried out at regional or district level with any effectiveness. The Commission considers this one of the most glaring weaknesses in the Post Office's preventive security program.

Security guards

Security guards because of the nature of their work are a form of prevention. Access control, reporting unusual incidents, alertness and conscientiousness, all contribute to the preventive security program. Needless to say, as the credibility and competence of the security guard force grows, so does its deterrent effect. The power and authority given to security guards to meet physical security concerns, however, must always be balanced against other considerations such as costs, the need for a tolerable work environment and the need to increase productivity.

One of the weaknesses of the security guard's role in a prevention program is the frequency with which contract guards are changed. Guards are often relocated before they can become completely familiar with their working environment and the security vulnerabilities of it. Efforts have been made by Security and Investigation officers to reduce the turnover, not only of individual guards, but also of the private security companies to whom contracts are let.

Line managers

All Post Office staff, especially supervisors, have responsibility for ensuring the safety of the mail and of Post Office property. At one extreme, station managers, for example, are personally liable for shortages of funds in their stations. Management staff in other types of postal facilities must, however, consider other factors when improved security measures, particularly those relating to physical security, are suggested. Among the more salient considerations are:

- the reaction of the employees and their union representatives to increased security precautions. Negative reactions could occur on the grounds of their dehumanizing effects on the work environment. The most obvious example of such protest is over the use of closed circuit television for investigative purposes;
- the costs of the measures. Any changes in security measures, including increases in staffing levels, must be considered by managers in relation to their other budget priorities;
- the effect of security measures on efficient mail processing.

Prevention is taken into consideration by line managers in some instances, particularly when the potential for loss is great. For example, postal inspectors may be consulted on procedures when a large mailing of credit cards is being planned. They are sometimes consulted when unusually large amounts of valuables are being held in a registered mail area. In such circumstances they may be asked to contact their counterparts at the banks to delay further shipments of money or bullion until the situation eases. This consultation is on an *ad hoc* basis, however, and depends on the security awareness of the individual supervisor.

Security surveys

The following directive, dated September, 1974, and issued by Security and Investigation at National Headquarters, outlines the responsibilities for security surveys.

Physical security surveys conducted by postal inspectors will detect and highlight for subsequent corrective action, security weaknesses or irregularities within the system and develop security awareness among management and employees. In areas where surveys are impracticable because of workload or other reasons, security surveys may be made by the RCMP through arrangements made through regional S & I.

Few postal inspectors have been specifically trained to do physical security surveys, although some basic information is included in the manual on preventive security and in the three-week training course. In the report on the 1979 R.C.M.P. security surveys, it was recommended that the R.C.M.P. Protective Policing Directorate be requested to assist in the development of a training program in security surveys for postal inspectors.

Security surveys are performed irregularly. Plant managers may request surveys, although this appears to happen infrequently. However, plant personnel may consult public police forces for advice on specific security matters, such as the security vulnerability of a particular type of vault.

The Inspector-in-charge, Prevention does carry out some physical security surveys within his region although, as mentioned above, consultation with Security and Investigation by other branches is often done after the fact. Recommendations resulting from security surveys are not always implemented, largely because of the costs involved. Neither district nor regional Security and Investigation have a standing allocation of funds available for preventive security hardware, for example. The Commission has noted that there are many outstanding recommendations resulting from the comprehensive security survey program started by the R.C.M.P. in 1979. For the most part, only those recommendations which cost little have been acted upon.

Security clearances

All persons employed by the Post Office who have access to documents classified as "Confidential" or higher must have a security clearance. According to the Postal Standards and Guidelines, dated June 1976, regional directors of Security and Investigation are responsible for the coordination of these clearances.

There is apparent inconsistency in the application of the security clearance program. While those who need access to confidential information (middle and senior management, for the most part) and security guards in the plants are required to have clearance, persons working in registered mail areas, for example, where valuables are handled routinely, no longer require special checks on their backgrounds. Contract security guards, most of whom are bonded under arrangements made with their employers, are not required to have a government security clearance unless they are to be employed in an area where classified government documents are accessible to them.

All Post Office employees, however, including casuals, are required to have their fingerprints taken as a condition of employment. Fingerprints are

sent to the R.C.M.P. by Security and Investigation units for a check against criminal records indices. If the employee has a criminal record, the information obtained from the R.C.M.P. about the conviction is given to Personnel Services with a recommendation on whether the employee should be retained or released.

In making their recommendations, they are guided by the criteria listed in the *Security Manual for Postal Inspectors*:

- offence type; those related to dishonesty, moral character and drugs. While prior conviction for an offence related to dishonesty is to be weighed most heavily, postal inspectors are told that drug-related and moral character offences (the latter including impaired driving and sexual offences) also indicate unsuitability for employment;
- age;
- time elapsed since offence was committed;
- extenuating circumstances surrounding the offence;
- evidence that the employee has made a genuine effort to rehabilitate himself.

Postal inspectors are advised that "every case should be carefully considered on all the existing circumstances before making a recommendation". Clearly, the criteria for refusal of employment are open to a variety of interpretations. It is also suggested in the manual that local police may be consulted for information relating to the ex-offender.

Perhaps the principal weakness of the program of using fingerprints to check criminal records is that employees are hired and then checked. Common sense dictates that checks should be made before hiring but for administrative reasons this is apparently too difficult. The inevitable result of this reverse process is that very few employees are in fact released because of a previous conviction for a criminal offence. Once an employee is hired, it is far more likely that Personnel Services will gamble on the possibility of the employee's rehabilitation than go to the trouble of releasing him.

The Commission has been unable to determine how many postal employees have been released as a result of fingerprint checks or how many postal employees with previous criminal records have committed crimes against the Post Office. These kinds of statistics are not gathered. The general opinion among Post Office managers and labour union leaders is that there are probably no more "ex-offenders" working in the Post Office than would be found in other organizations with large numbers of semi-skilled workers.

Security awareness programs

The authors of the R.C.M.P. security surveys have stated that at the point of hiring, employees are not fully briefed on security issues.

Documents acknowledging the employee's awareness of his probation, Public Service conflict of interest guidelines and instructions regarding the interfering, tampering, meddling with mail; and opening and examining mail are also signed and witnessed. Employees are all made aware of plant rules; however, employees are not briefed respecting security regulations and policy.

As well, these security surveys noted that, although the Post Office has the capability of adopting a security awareness program, it has not done so. Guidelines on various aspects of security do exist, however. For example, a "Manual Distribution Letter", issued by Headquarters, Security and Investigation in May 1979, stated that the purpose and existence of observation systems (observation galleries and Investigative CCTV):

... shall form part of the induction process for new employees. Also during the course of their employ, they should receive occasional general 'reminders' as to the existence and purpose of such systems.

Letter carriers are informed of the consequences of tampering with or delaying mail and must sign a statement to that effect. During their one-week classroom training, they are also informed of the regulations and legal implications of their job. Newly hired carriers are not held accountable until they have received this formal training. On the other hand, it has been suggested by union respondents that letter carriers are not sufficiently informed of the consequences of some actions — for example, the discarding of "householders" (unaddressed third class mail). While considered "junk" mail by carriers and most citizens, undelivered householders, according to regulations, are to be taken back to the postal station and, if in excess, destroyed. If the letter carrier does not return them, he is liable to charges under the Post Office Act and/or disciplinary action, including dismissal. Union personnel suggested that training is insufficient and that more efforts be made to inform carriers of the consequences of discarding or delaying mail.

The Commission has been shown large quantities of valuable cameras, watches, jewelry, clothing and household goods worth thousands of dollars which have been recovered by postal inspectors while investigating internal theft. Large numbers of photographs of stolen items were also given to the Commission. The extent to which information programs on security would prevent theft of the mail and losses to the Post Office and its customers is not clear. Some persons have speculated that much of the minor theft from

the mail, by postal employees, is done for "excitement" or "thrills". If so, then it is not certain that extensive security awareness programs would prevent this type of impulsive activity. However, it would seem in the employees' interest that they be informed at hiring and regularly thereafter of the existing security measures, the reasons for their existence, and the possible penalties for disobeying the regulations or legislation.

It is apparent to the Commission that the phrase, "the sanctity of the mail" is no longer fully understood or respected by certain of the younger Post Office employees. The fact that there is not a program to point out to them on a regular basis the disciplinary and legal consequences of stealing from the mails was noted by the Commission.

In the view of several union respondents, stronger security measures generally in the postal plants might slightly reduce the incidence of theft, but would tend to create more tension because of the antagonism felt towards unilateral management decision-making. It seems likely that union participation in awareness programs, if it were possible to achieve, would have more impact than programs initiated solely by management without employee consultation or input. On the other hand, when asked if his union would consider sitting on a committee with management to discuss preventive measures against losses, Jean-Claude Parrot, President of the Canadian Union of Postal Workers, told the Commission,

In our case, right now, until we are convinced that it is done for the right reason and that it is being established as a priority for management, as an important step for management, and they are showing to us that this is what they are working on, then I do not think there is any hesitation on our part to assist on that. But if you are asking me to sit down with management on this tomorrow, I would say 'no'. First, they are going to have to show that they are really concerned about that and they are not going to use that just to find out who they can discipline. Also, if it shows that this is something which each employee should have reported in the past, like I did myself, and they say, 'Why didn't you tell us that this thing was going on? Why didn't you tell me that the supervisor was ordering you not to count the parcels?' And use it for other purposes. So, in answer to your question, there is no hesitation in our doing it, but at the same time we have to have the assurance that it will be done for the right purpose. You have to accept that we are suspicious of our management. It is not by changing names or changing things that you are going to change attitudes.⁸

Employee involvement has long been the key to successful occupational health and safety programs in Canadian industry. In the words of one of the Commission's witnesses, now a senior government security officer,

8. Testimony p. 2577 — 78.

I felt that Preventive Security [in the Post Office] could well afford to have adopted the employee involvement methods used in Occupational Safety and Health programs.⁹

Customer practices

Losses could be reduced if customers altered some of their mailing practices. The following are areas where customers have some responsibility:

- many goods are badly packaged. Automated plants have large drops where improperly wrapped parcels can break open, or the contents can be damaged. Certain fragile items cannot be expected to be safely transported by the Post Office;
- advertising on packages informs mail handlers and others in contact with the mail of the contents of the parcels;
- certain private carriers who deliver bulk mail to the plants are not themselves checked out by large volume mailers and may be responsible for thefts and sloppy handling;
- some loss is the result of inadequate accounting and shipping practices (for example, inaccurate counting of the number of items sent and received by large corporations). Some claims may be for items that were never sent or were delivered but were "lost" on arrival.
- the machinery in the automated plants is designed only for items that meet standard size and other specifications (for example, a loose key in an envelope can cause machine breakdown).
- valuables are not always insured by the sender. The mailing public is apparently not as well informed as it could be about these deficiencies in mailing habits.

Investigations

The Security and Investigation Services policy statement concerning investigations claims that the Post Office Department:

Will conduct investigations into all real or suspected criminal offences against or related to the Canada Post Office whether they be perpetrated by internal or external sources. These investigations will be carried out by Security and Investigation Officers, designated pursuant to Section 48 of the Post Office Act, to be known as Postal Inspectors. (Postal Guideline No. 550-1-6 Re Crimes, etc. — Investigation)

Furthermore, the Post Office Department:

may also conduct special enquiries into anything that may adversely affect the security or operational efficiency of the Post

9. A. Eugene Traynor, Director Security Services, National Museums of Canada.

Office and many have national impact or other serious ramifications. These investigations will be conducted by designated Post Office inspectors from Headquarters or the Regions, or both.

Thus, Security and Investigation Services are responsible for investigating criminal, security and operational efficiency affecting the Post Office. Investigation of criminal offences, real or suspected, is to be undertaken whether the origin of the offence is internal or external to the Post Office.

The Guidelines concerning investigations state also that:

The Director of Security and Investigations Services will advise the Headquarters complex on all aspects of security and investigations within the Post Office. He will be responsible for issuing appropriate guidelines within the investigator's manual. Regional General Managers should ensure that investigations and security functions are carried out according to guidelines issued and that all line managers and supervisors are briefed by postal inspectors as to the type of offences affecting the Post Office. Line managers and supervisors [are] responsible for ensuring that all real or suspected criminal offences or security threats against the Post Office that come to their attention are promptly reported to the appropriate designated officer in the region or at Headquarters in order that immediate investigative or remedial action can be taken.

National

The role of the National Director of Security and Investigation is advisory and informational, while that of the Regional General Manager is managerial both with respect to Security and Investigation's Regional functions and with respect to the specific responsibility of regional Security and Investigation to brief line managers on postal offences. Line managers and supervisors are seen to have a reporting responsibility with respect to suspected or real offences against the Post Office. In a document entitled *Security and Investigation Services Organization*, the objective of Post Office investigators is defined as being "to reduce losses by competent investigations and prosecution of offenders". Further, the function of the Investigative Division at National Headquarters (which comprises an Investigation Research and Coordination Unit, and an Illegal Mail Unit) is administrative, with responsibility to:

Establish policies, procedures and coordination of a total investigative program in order to provide senior management at Headquarters level and in the field with effective and competent investigative support units strategically located throughout the entire organization.

Provide regional chiefs of Security and Investigations with functional guidance and coordination in criminal matters of a national and international nature.

Provide management at Headquarters and in the field with a flexible investigative resource, capable of early response to situations affecting the revenue and image of the Department where security measures are not practicable or effective.

Regional

The same document states that in the field:

The Regional Chief, Security and Investigation provides the region with security and investigative resources relating to [the protection of] values, facilities, equipment, mail, personnel and information from attack by internal and external sources.

The Regional Chief, Security and Investigation ensures competent investigation within his region of postal complaints and other crimes against the Department.

The powers and authority of postal inspectors is derived from Section 48 of the Post Office Act. A detailed analysis of these powers is found in Chapter 4. For present purposes it is sufficient to examine the internal policy of the Post Office concerning inspectors. The *Manual of Information for Postal Inspectors*, based on Section 48 of the Post Office Act, states:

A Post Office Inspector has a statutory right to investigate all matters relating to the business of the Canada Post Office. (Para. 25.1)

A Post Office Inspector's authority as set forth above requires that the investigation he/she is conducting must be concerned with the business of the Canada Post Office or with the conduct of any person engaged in or affecting the business of the Canada Post Office. (Para. 25.3)

The Postal Corporate Policy Statement No. 50-1-6, issued by Security and Investigation Services, states that:

1. The Department will conduct investigations into all real or suspected criminal offences against or related to the Canada Post Office whether they be perpetrated by internal or external sources. These investigations will be carried out by Security and Investigations Officers, designated pursuant to Section 48 of the Post Office Act, to be known as Postal Inspectors.
2. The Department may also conduct special enquiries into anything that may adversely affect the security or operational efficiency of the Post Office and may have national impact or other serious ramifications. These investigations will be conducted by designated Post Office Inspectors from Headquarters or the Regions, or both.

In carrying out these directives, postal inspectors must bear in mind that the collective agreements with the postal unions provide that employees have

the right to 24 hours notice of an interview with inspectors that may have disciplinary consequences.

The *Manual* further instructs the postal inspector that, although Section 48(3) of the Act vests in them the powers of commissioners appointed under the Inquiries Act,

Such powers, however, are not to be used without the prior approval of the Director, Security and Investigation Services or the Director, Legal Services.(Para. 25.4.2)

Offences

Criminal offences against the Post Office are classified by Security and Investigation Services for reporting purposes into seven major categories (the "Master Statistics" categories). For the purposes of this report, these categories will be used to examine the types of investigations conducted by the Security and Investigation element of the Post Office. The type and frequency of criminal offences against Canada Post as reflected in the Master Statistics Reports for districts, postal regions and the country as a whole are an indication of the nature and volume of criminal investigations undertaken by postal inspectors. The "Master Statistics" categories are:

- Mail depredations
- Financial irregularities
- Robberies and Break and Enters
- Illegal use of the mails
- Money order irregularities
- Street letter box depredations
- Miscellaneous

Mail depredations

This offence applies to theft, wilful damage, openings, delays and abandonment of the mail. Most of the investigations in this category are internal and involve postal employees. Offences normally occur after mail has been deposited and before delivery. In some investigations it is necessary to seek the assistance of the local police. For most postal inspectors this offence is given the highest investigative priority.

Financial irregularities

This offence relates to financial shortages, lost values, lost remittances, embezzlement of funds, wicket deviations and the misrepresentation of work

hours. Again, most investigations indicate employees are usually responsible. These occurrences may be reported by other employees or be uncovered by computer readouts, annual inspections or spot surveys. Since most charges in this category are made under the Post Office Act or the Financial Administration Act the assistance of the local police is seldom required. Although the appropriate sections of the Criminal Code could be applied the tendency is to use the other two acts mentioned.

Robberies and break and enters

This offence includes hold-ups, grab thefts, break and enter and truck hijacks. In nearly all cases of this type the occurrences are reported immediately to the local police for investigation. Generally, no actual investigation is conducted by the postal inspectors but they do assist the police as required. Attempts are made by the inspectors to determine if there may have been any internal involvement. Responses to these incidents are immediate and the inspectors assist in restoring the postal facility to a functional state as soon as possible to accommodate the public. In most cases postal inspectors make recommendations regarding security improvements or the implementation of security procedures to prevent a recurrence.

Illegal use of the mails

The distribution of any material which is prohibited by law is classified under this category. Examples include obscene material, explosives, aspects of fraud and drugs. The majority of investigations in this classification involve unsatisfactory transactions and are of a civil nature (for example, a customer does not receive goods or is dissatisfied with the product). If an offence under this section appears legitimate it is referred to the Illegal Mails Section at Security and Investigation Headquarters in Ottawa for action. Usually no cost or loss information is available for these offences. The local police are rarely if ever involved, although the R.C.M.P. may be in international mail fraud cases.

Money order irregularities

Offences contained under this classification relate to stolen blank money orders, forgeries, double payments or raising the face value of money orders. Normally all cases are reported to the local police as they fall under the provisions of the Criminal Code's fraud and forgery sections. Usually no loss is incurred by the Post Office as the financial institution which negotiates an instrument is responsible for its authenticity. Therefore many of these cases are reported directly to the local police by the victims. Many instances under

this classification can be attributed to robberies when money orders are stolen. The inspectors claim their primary duty in these cases is to maintain the integrity of the money order system.

Street letter box depredation

Most of the incidents which fall under this classification are reported to Security and Investigation by the local police who discover the occurrence. On occasion inspectors will take possession of strewn mail and undertake to see that the box in question is restored. If a series of incidents occur within a particular area then charting and/or surveillance may be conducted by inspectors. Recommendations forwarded by Security and Investigation regarding anchoring devices for street letter boxes have resulted in successful programs in each region.

Miscellaneous

This classification covers occurrences which do not meet the criteria of the other categories. The section might be more aptly defined as 'Other Types of Investigations', for not all investigations are criminal. Some investigations cover sabotage, arson, bomb threats, vandalism or wilful damage. Others deal with claims for damages, motor vehicle accidents, and accidental loss of postal equipment. When it is discovered that incidents of this category have criminal aspects, they are reported to the local police for further investigation.

The 24-hour rule

Paragraph 10.04 of the Canadian Union of Postal Workers collective agreement states:

The Employer agrees to notify an employee twenty-four (24) hours in advance of any disciplinary interview or disciplinary counselling session and to indicate the purpose of the meeting, including whether it involves the employee's personal file.

Paragraph 10.06 states:

An employee summoned for disciplinary reasons shall have the right to be accompanied by a Union Representative so that the latter may know what the situation is and contribute to its clarification.

To assist postal inspectors in their interpretation of the 24-hour rule a Post Office policy directive states that:

To ensure that the employer has available to it the option of pursuing disciplinary action against the affected employee in

addition to or instead of a criminal prosecution, as well as the option of using any and all information in that disciplinary action, *and where the postal inspector believes that an observance of the 24-hour notice provision will not interfere with his investigation*, he should observe the 24-hour notice provision.

The Labour Relations Division Guideline on Discipline No. 60-2-10, states that "discipline should be administered in conjunction with the proper level of authority". Factors to be considered prior to disciplinary action are:

- seriousness of the offence;
- employee's awareness of infraction;
- discipline imposed for similar infractions;
- mitigating circumstances;
- past record of employee;
- reasonableness of the penalty;
- motivation or intent of the employee concerned.

In deciding whether to give notice of an interview, therefore, investigators must consider whether the employer's option to discipline should be maintained in addition to having to assess the consequences of the advance notice for the investigation. It is a difficult decision for postal inspectors to make. The general tendency is to have very strong evidence of a crime before approaching an employee to discuss the offence. The difficulty is further enhanced by a recent adjudication before the Public Service Staff Relations Board. The Post Office took the position that postal inspectors are not bound by the provisions of the CUPW collective agreement when, investigating a criminal offence, they wish to interview a postal employee. The adjudicator, J. C. Smith, stated that:

...There is no reason why the duties of Postal Inspectors cannot be carried out consistently with the provisions of this collective agreement.

The arguments used by the adjudicator were based on the fact that although postal inspectors were conducting investigations, their interviews were for the purpose of obtaining information concerning suspicions of wrong-doing on the part of those being interviewed. The interviews must, therefore, be considered as disciplinary since they may result in disciplinary action in addition to, or instead of, court proceedings. The union has subsequently advised its members to insist on their rights under article 10 of the collective agreement whenever they are approached by postal inspectors. The following advice appeared in CUPW Bulletin, Vol.10, No. 7 of August 1980.

Here's what to do if you are accused by S & I:

1. Refuse to answer any questions. Ask immediately for a shop steward, your right under clause 10.06 of the collective agreement.
2. Demand that you be allowed to consult privately with your shop steward.
3. Let your steward do all the talking on your behalf from now on. Remain silent.
4. Your steward should find out exactly what you are accused of.
5. Under clause 10.04 of the collective agreement, you have the right to 24 hours notice before being interviewed. Insist on your right to this notice.
6. Refuse to let them search your home if asked.
7. If they ask you to go to a police station with them, refuse to do so. They have no right to take you there and you are under no obligation to go with them.
8. If they bring in the police and the police arrest you, you must go with them to the police station.
9. In such an event, your shop steward should immediately make arrangements for a lawyer.
10. You are under no obligation to answer questions put to you by the police. You have the right to remain silent. Don't answer any questions. Refer them to your lawyer. Don't make a "statement".

If all members of CUPW know their rights, we will end intimidation by the S & I on the plant floor.

Laying of charges and prosecution

When investigators were asked to describe the factors considered in whether to lay a charge, it was apparent that they have a measure of discretion in pursuing a charge against a Post Office employee. Criteria mentioned included whether an employee has a criminal record, the circumstances of the offence, the employee's Post Office disciplinary file, whether he or she is considered a "good" employee, and any further mitigating circumstances such as alcohol, health or family problems. In some instances the Post Office might waive prosecution, especially if the employee has taken personal action such as seeking help for health or drinking problems.

The Commission was informed that, depending on the individual inspector, there was a certain amount of compassion exercised with regard to laying charges. The discretion of the Post Office is especially applicable to offences under the Post Office Act, it was stated. Less leeway is perceived if the offence comes under the Criminal Code. It was also indicated, however, that the postal inspector can make recommendations to his supervisor even with regard to offences under the Criminal Code.

Procedures seem to be similar in each of the four regions. Guidance on whether to recommend prosecution or disciplinary action is found in Canada Post Instructional Information System,

DISCIPLINARY ACTION PREFERABLE

When postal employees are involved in job related crimes, in some instances it may be in the best interest of the department to waive prosecution in favour of disciplinary action. This course may be preferable on genuine, compassionate grounds or for other mitigating reasons such as length of service, previous work record of the employee, circumstances leading up to the commission of the offence....

Postal inspectors are expected to make recommendations to the inspector-in-charge of a unit who, in turn, refers the matter to the regional director of Security and Investigation. The regional director then forwards the case to the regional general manager who may consult officials in Ottawa, including the Department of Justice or Crown Counsel, before arriving at a decision. Moreover, the managers involved are consulted and asked for advice. The result is an inconsistency in the decisions to prosecute.

In a case involving a plant manager who had misappropriated in excess of \$5,000 worth of Post Office property for his personal use, he was disciplined and dismissed although the investigators were adamant that the matter should be brought before the courts in the form of criminal charges. Conversely, a letter carrier who had stolen only \$4 worth of Post Office property was not only charged with theft but was also disciplined and had his employment terminated.

Where a case involves laying a charge against a private citizen, the Post Office does not examine extenuating circumstances. That is left to the public police, the Crown and the courts.

Discretion is also exercised with regard to suspensions under the Post Office Act. Security and Investigation Services discuss possible suspensions with the appropriate plant or area manager. The manager has access to information on the employee's past behaviour and it is he who decides whether or not the person is a problem employee. If it is a matter of a first

offence by an employee with a good work record, these factors could influence what action is taken.

Results of investigations

To determine the proportion of investigations which result in disciplinary action, as opposed to criminal prosecution, a sample of criminal offences involving postal employees during the past five years was taken from the files of the Vancouver, Calgary and Saskatoon Units in the Western Postal Region and examined by the Commission.

In the sample, a total of 114 employees were dealt with under the Post Office Act resulting in 77 cases of disciplinary action and 37 dismissals. 51 employees were investigated for criminal activity resulting in 33 charges being laid and 18 cases being dealt with as disciplinary matters at the discretion of management, including three dismissals.

In the Atlantic Region, a review of statistics indicated that during the fiscal year 1979-80 a total of 28 employees were identified as having committed an offence. Only four were prosecuted. On the other hand 17 non-employees were identified as having broken the law and all 17 were prosecuted.

In the Quebec Region, during the fiscal year 1979-80, of 146 suspects investigated, 71 were postal employees but, of 98 criminal charges laid and prosecuted, only 28 were against postal employees. Of 43 postal employees who committed offences under the Post Office Act, only 24 were prosecuted. 39 postal employees were dismissed for offences under the Criminal Code and the Post Office Act.

Finally, in the Ontario Region, of 69 postal employees identified, 36 were disciplined by line management, 31 were formally charged and no action was taken with two. 76 members of the public were charged with one or more crimes.

Summary

There have been and are likely to continue to be breaches of postal security in the areas of mail theft and damage, theft of Post Office and customer monies, theft and damage to postal equipment and facilities, offences against the person and property of employees, and offences involving illegal use of the mails. Although the available data severely limit attempts to estimate accurately the extent and costs of such loss and damage, as described in Chapter 1, the costs are in excess of \$4 million

annually. It is not known whether this is excessive compared to losses experienced by other organizations of similar size and complexity, but losses from the Post Office are perceived by the public and many postal employees to be different from those of private firms. Loss in the Post Office involves articles owned by others. The Post Office is in a position of trust in transmitting these goods. Further, because of the Post Office's virtual monopoly over mail services, customers have little choice but to entrust their goods to it.

Peace Officer Concept

The protection of the individual from oppression and abuse is a major interest in a free society; but so is the effective prosecution of crime, an interest which at times seems forgotten. As against the rights of the individuals must be set the interests of society but as Lord Simonds found in Christie et al v. Leachinsky it is not easy so to state the law as not on the one hand to impinge upon the liberty of the subject or on the other hand to make more difficult the duty of every subject of the King to preserve the King's Peace.

John Honsberger, "The Power of Arrest and the Duties and Rights of Citizens and Police" (1963) Special Lecture before the Law Society of Upper Canada, p.5.

The Order-in-Council directed the Commission to examine the proposition that employees of the Security and Investigation Services Branch of the Post Office should be given the status of peace officers. At its hearings and in the briefs it received, the Commission heard arguments for and against the proposal. In support of their position postal inspectors, who were the strongest contenders for the granting of peace officer status, put forward a wide range of arguments. Some of these, such as the enhancement of available training programs and the improvement in the status and peer recognition of postal inspectors, have been dealt with elsewhere in this report. Six of the subjects raised in support of the need for peace officer status required careful legal analysis. These arguments centred on:

- power of arrest;
- power of detention;
- power of search;
- power of seizure;
- power of investigation and interrogation;
- use of force;
- protection for *bona fide* mistakes;
- access to police information;
- independence from management.

The gist of the inspectors' arguments is presented in introducing the Commission's analysis of each point.

The Canadian Bankers' Association supported the conferring of peace officer status on postal inspectors. The Association's arguments, however, were different from those of the inspectors. Indeed, the Association called for a reorganization of the Security and Investigation Services Branch along the lines of the U.S. Postal Inspection Service. In its testimony the Association emphasized the losses sustained by its major members which it estimated at several millions of dollars per year, and submitted that the losses of precious metals, money packets and bank cards were of such proportions as to warrant increased security and the granting of greater powers to postal inspectors. In support of its submission, the Association also presented statistics supplied by the federal Department of Supply and Services, placing loss sustained from stolen Government of Canada cheques from 1975 to 1979 at \$10,662,196.

In contrast to the support of the Canadian Bankers' Association, three attorneys-general and the Canadian Association of Chiefs of Police opposed giving peace officer status to postal inspectors. The attorneys-general presented a strong constitutional case against the granting of such powers. The Honourable R. Roy McMurtry, Solicitor General for the province of Ontario, stated:

Complications arise, however, where the activities of the security operation derogate from provincial responsibility for the administration of justice. We must express our basic opposition to the proliferation of federal police forces. In our view it is wrong to create new police forces or quasi-police forces for each type of federal property. Both police and public become confused as to who is in charge and doubts are raised regarding the role and authority of the local police. Also, the concept of the "peace officer" becomes diluted and takes on less meaning as more and more persons acquire the status. As mentioned, we are also concerned about federal initiatives which may impact negatively upon provincial responsibility for the administration of justice.

The Honourable Allan Williams, Attorney-General for the province of British Columbia, stated in a written submission:

I am concerned about the number of anomalous police forces presently operating in British Columbia under a variety of statutes and I have requested officials of the Ministry of the Attorney-General to undertake a review which, hopefully, will lead to measures reducing that number and bring under effective control those security agencies which cannot be eliminated altogether. In these circumstances, I would most certainly resist any initiative to move in any other direction.

The Honourable Rodman E. Logan, Attorney-General for the province of New Brunswick, submitted that:

... the ultimate responsibility for investigations into contraventions of the criminal law within the province, the apprehension and arrest of offenders and their prosecutions before the courts rests with the provincial Attorney General.

The Canadian Association of Chiefs of Police also opposed the conferring of peace officer status because of its constitutional implications and because the Association felt that a proliferation of police bodies was neither desirable nor warranted from the point of view of the principle of accountability or the control of policing.

The Canadian Labour Congress, the Canadian Union of Postal Workers, the Letter Carriers' Union of Canada, the Public Service Alliance of Canada and the International Brotherhood of Electrical Workers also opposed the granting of peace officer status for several reasons, but mainly on the grounds that a security force should be strictly preventive and not investigative. They urged that the work and duties of the Post Office's Security and Investigation element should be restricted to physical security and that investigations should be left to public police forces.

The Canadian Bar Association also opposed the conferring of peace officer status. At the same time, the Association stressed the need for full and complete investigation of losses even to the extent of giving full access to Post Office premises to public police forces.

In dealing with these arguments the Commission required a precise appreciation of the powers sought and how these differ from those which postal inspectors now have. To that end, the historical development of the peace officer concept was examined and the legal aspects were subjected to a thorough analysis.

Historical perspective

Historically, the peace officer had but limited powers.

He possessed an undoubted though somewhat vague authority, but it was not derived from the sovereign: he was by common law a conservator of the peace but he was no longer vested with any of those magisterial functions which justices, coroners and other conservators exercised by virtue of their office; his person was surrounded with a good deal of traditional sanctity, but when the law was more closely examined, it was found that his actual powers for the preservation of the peace differed very slightly from

those of the lieges who were not endued with the authority of office.¹

The powers of peace officers were examined in England in 1929 by the Royal Commission on Police Powers and Procedures. It commented,

The police of this country have never been recognized either in law or by tradition, as a force distinct from the general body of citizens. Despite the imposition of many extraneous duties on the police by legislation or administrative action, the principle remains that a policeman, in the view of the common law, is only "a person paid to perform, as a matter of duty, acts which if he were so minded he might have done voluntarily".

Indeed a policeman possesses few powers not enjoyed by the ordinary citizen, and public opinion, expressed in Parliament and elsewhere, has shown great jealousy of any attempts to give increased authority to the police. This attitude is due, we believe, not to any distrust of the police as a body, but to an instinctive feeling that, as a matter of principle, they should have as few powers as possible which are not possessed by the ordinary citizen, and that their authority should rest on the broad basis of the consent and active cooperation of all law-abiding people. At the same time it must be realized that there are certain duties of a special nature which, if they are to be entrusted to the police and adequately performed by them, require the grant of special powers.

It follows that the police, in exercising their functions, are, to a peculiar degree, dependent upon the goodwill of the general public and that the utmost discretion must be exercised by them to avoid over-stepping the limited powers which they possess. A proper and mutual understanding between the police and public is essential for the maintenance of law and order.²

This statement was endorsed by the later British Royal Commission on the Police 1962.³ More recently, a Canadian writer has commented,

Many people believe that police officers' powers of arrest are much greater than those of private citizens. While police officers have additional powers, they are not extraordinarily powerful and there is a historical explanation for this. Before organized full-time police forces were created one hundred and fifty years ago, citizens were responsible for the apprehension of criminals. These citizens' powers have now been delegated to the police.⁴

Although a peace officer may possess "few powers not enjoyed by the ordinary citizen", Parliament has seen fit, over the years, to grant "peace

1. Critchley, T.A., *A History of Police in England and Wales*, Second Edition, London, England, (Patterson-Smith), p.17.

2. Cmd. 3297.

3. Report, pp.10-11.

4. Parker, Graham, *An Introduction to Criminal Law*, Toronto, (Methuen), p.262.

officer" powers to many. In fact, the Commission's research revealed that no fewer than 161 federal statutes, in addition to the Criminal Code, grant special powers traditionally reserved for peace officers. Attached to this report as Appendix D is a list of this legislation and the powers granted by it. For the purposes of this report it is not necessary to deal with the whole body of legislation. Attention need only be paid to the Criminal Code and the two statutes dealt with most frequently by postal inspectors (the Post Office Act and the Financial Administration Act). The Commission would be remiss, however, if it did not stress that revision of this proliferation of statutory law is desirable, if not essential. The need for a review, whether from a constitutional or any other viewpoint, is demonstrable and need hardly be underlined.

The primary definition of a 'peace officer', and the one which has guided the Commission in its deliberations, is set out in section 2 of the Criminal Code.

'peace officer' includes

- (a) a mayor, warden, reeve, sheriff, deputy sheriff, sheriff's officer and justice of the peace,
- (b) a warden, deputy warden, instructor, keeper, gaoler, guard and any other officer or permanent employee of a prison,
- (c) a police officer, police constable, bailiff, constable, or other person employed for the preservation and maintenance of the public peace or for the service or execution of civil process,
- (d) an officer or person having the powers of a customs or excise officer when performing any duty in the administration of the *Customs Act* or the *Excise Act*,
- (d.1) a person appointed or designated as a fishery officer under the *Fisheries Act* when performing any of his duties or functions pursuant to that Act, 1976-77, c.35, s.21,
- (e) the pilot in command of an aircraft
 - (i) registered in Canada under regulations made under the *Aeronautics Act*, or
 - (ii) leased without crew and operated by a person who is qualified under regulations made under the *Aeronautics Act* to be registered as owner of an aircraft registered in Canada under those regulations,

while the aircraft is in flight, and

- (f) officers and men of the Canadian Forces who are
 - (i) appointed for the purposes of section 134 of the *National Defence Act*, or

- (ii) employed on duties that the Governor in Council, in regulations made under the *National Defence Act* for the purpose of this paragraph, has prescribed to be of such a kind as to necessitate that the officers and men performing them have the powers of peace officers; 1972, c.13, s.2(2).

Peace officer status is not restricted to those listed in this definition. The courts have held that section 2 of the Criminal Code is expansive rather than exhaustive.⁵ The principle has emerged that a person does not have to be specifically designated as a peace officer to be considered as one for the purposes of the Criminal Code. If a position created by statute is vested with sufficient power to bring it within the Criminal Code definition of 'peace officer', then the holder of that position is deemed to have the status or authority of a peace officer. It should also be borne in mind that the powers most often associated with a peace officer (arrest, detention, search and seizure, investigation and interrogation and the use of force) are not specially reserved for peace officers.

Legal analysis

In examining the legal implications of the proposal that postal inspectors be granted the status of peace officers, particular attention was paid to the powers being sought. Postal inspectors argued that they required the powers of peace officers in order to fulfil their duties. To arrive at a conclusion on whether to recommend that peace officer status be granted, it was necessary to know why the power was being sought, what the status of peace officer entailed and whether there were sufficient powers available without peace officer status to meet the required goal. The following discussion and legal analysis are organized around the arguments in favour of the proposal.

Power of arrest

Many postal inspectors expressed the view that they required the additional powers of arrest that only peace officer status would provide. They argued that the existing power of arrest, which is essentially the right to make a citizen's arrest in accordance with section 449(1) of the Criminal Code, is much too limited. In particular the requirement that to make a citizen's arrest one must observe an offence being committed, was considered to be restrictive. The powers found in section 449(1), it was argued, are not adequate in the frequent cases where offences are witnessed from observation galleries or over closed circuit television. The resulting necessity

5. See, for example R. v. Renz, (1973) 10 C.C.C. (2d) 250, in which the Ontario Court of Appeal held that a conservation officer was a peace officer for the purposes of section 2 of the Criminal Code.

of calling in the public police causes delays which, in addition to increasing the cost, often frustrates successful prosecution.

The McRuer Commission into Civil Rights defined arrest in 1969:

Any actual restraint imposed on a person's liberty against his will constitutes an arrest. The restraint may be imposed by the application of force, or by circumstances that imply a threat of force.⁶

It follows from the terms of the definition that one does not have to be a peace officer to carry out an arrest although peace officers have been given certain particular powers of arrest in the Criminal Code. Similarly, a distinction must be drawn between the power to arrest with and without a warrant.

Arrest without warrant

A wide variety of federal and provincial statutes give peace officers the power to arrest without warrant. While many of these remove the need for "direct observation" that is usually required for arrests by persons other than peace officers, some do not. The provisions for arrest without warrant in the Criminal Code illustrate the variations. Subsection 450(1) of the Criminal Code, for example, provides that:

A peace officer may arrest without warrant

- (a) a person who has committed an indictable offence or who, on reasonable and probable grounds, he believes has committed or is about to commit an indictable offence,
- (b) a person whom he finds committing a criminal offence, or
- (c) a person for whose arrest he has reasonable and probable grounds to believe that a warrant is in force within the territorial jurisdiction in which the person is found.

Paragraph (a) of this subsection, which relates only to indictable offences⁷, does not require direct observation of an offence being committed. It permits arrest on a belief held on "reasonable and probable grounds". It also allows arrests in anticipation of a crime being attempted. Paragraph (b) does require direct observation, though it extends to all "criminal offences", including those which may be dealt with on summary conviction. The requirement that a peace officer must find someone "committing" an offence to make an arrest under this paragraph has been interpreted by the courts to permit arrest if a person is "apparently committing" an offence.⁸

6. Royal Commission of Inquiry into Civil Rights — McRuer (1969) Report No. 1, Vol. 2, p. 725.

7. The courts have held that, for the purposes of powers of arrest without warrant, "indictable offence" includes so-called "dual" offences which may be prosecuted on indictment or on summary conviction, at the election of the prosecutor: see R. v. Huff (1980) 50 C.C.C. (2d) 324.

8. R. v. Biron (1975) 30 C.R.N.S. 109.

This paragraph gives peace officers greater powers of arrest than are available to others. As will be seen in the discussion in the next section, persons who are not peace officers may legally arrest without warrant only under the limited provisions of section 449 of the Criminal Code⁹. Paragraph (c) of section 450(1), like paragraph (a), allows a peace officer to act on "reasonable and probable grounds" and without direct observation of an offence being committed. Unlike paragraph (a), however, the "belief" referred to here is a belief in the existence of a valid warrant rather than a belief in the commission, or anticipated commission, of an offence.

Other powers of arrest are provided in section 31 of the Criminal Code which states:

- (1) Every peace officer who witnesses a breach of the peace and every one who lawfully assists him is justified in arresting any person whom he finds committing the breach of the peace or who, on reasonable and probable grounds, he believes is about to join in or renew the breach of the peace.
- (2) Every peace officer is justified in receiving into custody any person who is given into his charge as having been a party to a breach of the peace by one who has, or who on reasonable and probable grounds he believes has, witnessed the breach of the peace.

The power of arrest under subsection (1) of this section requires a peace officer to have actually witnessed a breach of the peace or to have reasonable and probable grounds for believing that such person was about to join in or renew the breach. The subsection thus allows a "direct observation" arrest or an anticipatory arrest. It does not allow an *ex post facto* arrest where there has been no direct observation of the offence by the peace officer.

As noted above, federal and provincial legislation abound with such provisions. The most commonly invoked, however, apart from those in the Criminal Code and selected federal statutes, are those in provincial liquor, petty trespass and highway traffic legislation. Whether any particular power of this kind is available to a peace officer depends on whether it can be related to his legally defined duties.

Arrest by others without warrant

Since they are not peace officers, the legal authority of Post Office inspectors and security guards to make arrests without warrant is akin to that of any other citizen. Section 449 of the Criminal Code provides:

9. See section entitled *Arrest by others without warrant*.

- (1) Any one may arrest without warrant
- (a) a person whom he finds committing an indictable offence,
or
 - (b) a person who, on reasonable and probable grounds, he believes
 - (i) has committed a criminal offence, and
 - (ii) is escaping from and freshly pursued by persons who have lawful authority to arrest that person.

(2) Any one who is

- (a) the owner or a person in lawful possession of property,
or
 - (b) a person authorized by the owner or by a person in lawful possession of property,
- may arrest without warrant a person whom he finds committing a criminal offence on or in relation to that property.

(3) Any one other than a peace officer who arrests a person without warrant shall forthwith deliver the person to a peace officer.

The term “finds committing” as it appears in this section has been held to require direct observation of the commission of an offence by the person making the arrest. Information from some other person about the commission of an offence, however reliable such information is thought to be, does not by itself justify an arrest under 449(1)(a) or 449(2).¹⁰ This requirement of direct observation poses problems when electronic surveillance equipment is being used. Since it is often essential to act quickly before a suspect can dispose of or conceal evidence, security personnel frequently work in pairs with one officer watching the surveillance equipment and then signalling (perhaps by two-way radio) to another, who is nearer the scene of the offence. Although it would make sense for the second officer to then make an arrest, this is not permissible under the law. Instead the second officer can only try to place himself in a position to observe the offence being committed or maintain surveillance until the first officer arrives on the scene.

The references to “indictable offence” and “criminal offence” in section 449, do not limit the power of arrest to offences committed under the Criminal Code. Section 27(2) of the Interpretation Act extends the term ‘criminal offence’ to encompass offences under other federal statutes includ-

10. See R. v. Biron, (1975) 30 C.R.N.S. 109-at 114, in which the majority of the Supreme Court of Canada, interpreting the term “finds committing” in section 450(1)(b) of the Code (peace officer powers of arrest), stated that a person’s power to arrest under such circumstances “is based on his own observation”.

ing the Post Office Act and the Financial Administration Act.¹¹ In addition, the courts have determined that 'dual' offences — those which, at the option of the Crown, may be prosecuted either on indictment or summarily — may be treated as indictable offences for the purpose of arrests.¹²

Subsection (3) of section 449 requires anyone who makes an arrest under subsections (1) and (2) to deliver the arrested person to a peace officer "forthwith". This term does not mean "instantly", but as soon as is "reasonably possible or practicable under all the circumstances".¹³

Paragraph 449(1)(b) is the only part of the section which gives the power to arrest "on suspicion" and without the necessity for direct observation of the offence by the person making the arrest. What constitutes "reasonable and probable grounds", for the purposes of this paragraph, is a criterion of law which can only be resolved in the light of the particular circumstances of each case. A coherent report of an offence from a credible witness, however, is usually sufficient.¹⁴ To what extent verification is required before making an arrest under this paragraph also depends on the circumstances of the case. But, given the requirement of "fresh pursuit", it is reasonably clear that the power of arrest under this paragraph is not normally expected to involve much more than a snap judgment, albeit a prudent one.¹⁵

Arrest by peace officers with a warrant

Paragraph 455.3(1)(b) of the Criminal Code provides for the issuance of a warrant for the arrest of a person if after receiving information a justice considers that a case for doing so has been made. Alternatively, a justice may issue a summons directing the appearance of a person. Both actions compel a person against whom they are directed to attend and answer to a charge of an offence.

11. Although no case specifically on this point was found, Macdonald, J.A., in his judgment in *McNeil v. The Queen* (1977) 36 C.C.C. (2d) 45, at 63, clearly suggests, *obiter*, that offences under the Post Office Act are criminal offences. The decision of the Nova Scotia Court of Appeal in this case was subsequently reversed by the Supreme Court of Canada, but on grounds which give no reason to doubt the correctness of Macdonald, J.A.'s *obiter dicta*.

12. See, for example, *R. v. Huff*, (1980) 50 C.C.C. (2d) 324.

13. See, for example, *R. v. Cunningham and Ritchie*, (1980) 49 C.C.C. (2d) 390, at 395. See also *R. v. Cuthbertson* (1949) 4 D.L.R. 369; *R. v. Vigin* (1966) 3 C.C.C. 103; and *R. v. Bell* (1969) 2 C.C.C. 9. In *Perry v. Woodwards Ltd.* (1929) 4 D.L.R. 751, the court stated, *obiter*, that private persons who detain persons (e.g., for shoplifting), may have a duty to question the suspect in order to verify that an offence has been committed, before handing him over to police authorities. The matter of questioning, however, will be discussed further below.

14. See, for example, *Lebrun v. High-Low Foods Ltd., et al.* (1968) 69 D.L.R. (2d) 433; and *Hucul v. Hicks* (1966) 55 D.L.R. (2d) 267.

15. See *R. v. Dean* (1966) 47 C.R. 311.

The Criminal Code also provides for the issuance of a warrant for arrest in several other instances. These include where it appears to a justice that a person who has been released ought to be kept in custody for reasons of public interest, failure to appear at a hearing, failure to comply with the terms of release, commission of another offence.

A warrant is a direction to arrest and there is no discretion vested in the person executing it. Arrest warrants under the Criminal Code can only be directed to, and executed by, peace officers as defined in section 2 of the Code. Postal inspectors do not have peace officer status for this purpose and they do not, therefore, have the power to execute a warrant of arrest unless they are acting in aid of a peace officer at his request. When acting in aid of a peace officer under such circumstances, they are legally protected by section 25 of the Code.

While Post Office inspectors cannot by themselves execute arrest warrants, they can legally swear out informations on the basis of which warrants may be issued, since section 455 of the Code provides that "any one" may swear out an information alleging the commission of an offence (see also sections 723 and 724). In addition the policy of the Post Office provides that under certain circumstances postal inspectors may exercise that authority.¹⁶

Power of arrest by "a person authorized"

Under section 449(2) of the Criminal Code "a person in lawful possession of property" or a "person authorized" by the person in lawful possession of property may arrest without warrant anyone whom he finds "committing a criminal offence on or in relation to that property". Whether a postal inspector or a Post Office security guard is "authorized by the owner or by a person in lawful possession" to arrest someone whom he "finds committing a criminal offence" against postal property or mail will, in any given context, always be a question of fact as well as of law. While the law can decide the legal conditions of "lawful possession" or authorization for this section, only departmental practices can reveal whether the authority has been bestowed. It is important to note first that "lawful possession" is not necessarily the same as legal ownership.

There is no doubt that while it is in the course of post, mailable matter is in the "lawful possession" of the Post Office Department, or at least of those postal employees who handle it. Indeed, it can be said with confidence that

16. See para. 115.1 of the *Manual of Information for Postal Inspectors*.

most, if not all, property on Post Office premises, in Post Office vehicles, drop boxes, etc., (except, of course, the personal property of persons visiting Post Office premises) is in the "lawful possession" of the Post Office and of the employees authorized to handle it.

Since security guards are not usually entrusted with possession of such property, the question of whether they may exercise the powers of arrest under section 449(2) will normally depend on whether they are "persons authorized" by the owners or by those in lawful possession of such property to do so.

There is little case law of much help in deciding what constitutes "authorization" for the purposes of section 449(2). Chief Justice Laskin, however, when he was on the Ontario Court of Appeal, referred to the authorization under section 449(2) as "arresting authority given by the owner or by the person in lawful possession".¹⁷

Whether postal inspectors have been so authorized can only be answered on the basis of an examination of Post Office directives. A review of these, however, indicates that there is not at present a simple answer.

Policies for postal inspectors are centralized and standardized. The principal source of information on the exercise of powers of arrest is the *Manual of Information for Postal Inspectors*. The relevant passages of the Manual state:

- 125.2 As a general rule, arrests are more common in Criminal Code offences whereas it is the practice to pursue Post Office Act charges by the issuance of a Summons to the accused.
- 125.3 Postal Investigators are to take action to arrange for the services of a Police Officer, if an arrest seems reasonably imminent. A Police Officer may (s.435CC)¹⁸ arrest with or without a warrant, a person who he believes has committed or is about to commit an indictable offence or if he observes a person committing a crime. Police Officers are protected from allegations of false arrest by s.25 CC, etc.
- 125.4 While arrests are to be effected by a Police Officer, circumstances may arise where a Postal Investigator may have to perform what is often termed a 'Citizen's Arrest'. Caution is to be exercised in dealing with Juveniles
- 125.5 Citizen's Arrest (s.434CC)can only be effected by a Postal Investigator who actually observes a person committing an indictable offence and, where feasible, consists of touching the person on the shoulder or arm, identifying himself and stating

17. R. v. Dean (1966) 47 C.R. 311, at 321.

18. These instructions were promulgated in June 1965, at which time the present sections 449 and 450 of the Code were sections 434 and 435.

clearly ‘you are under arrest’ or ‘I arrest you in the name of the Queen’ and gives reason for arrest (s.25CC). This action is to be taken in such a manner as to avoid drawing undue attention and then delivering the prisoner as soon as possible to a Police Officer. The use of force or restraint is not advocated but if the person attempts to leave, it should be pointed out to him that in addition to the charges of which he has been made aware, he may also have to face a charge of avoiding or escaping lawful arrest.¹⁹

These sections suggest quite clearly that postal inspectors are not “authorized persons” for the purposes of section 449(2) of the Code, since they state categorically that arrests under section 449 are only to be made for indictable offences. Section 449(2), on the other hand, contemplates arrests for “criminal offences” (which term includes non-indictable offences).

Power of detention

For the most part, postal inspectors may not detain a suspect. They must rely on the suspect consenting to stay to be “interviewed”. Since they cannot detain someone who, they think, has committed an offence, the request for an interview in such circumstances is often refused by the suspect. By the time public police forces can be brought in, the improperly appropriated goods or other reasons for suspicion are often no longer available as evidence. Using this line of reasoning, inspectors argued before the Commission that they required peace officer status in order to have adequate powers of detention over suspects.

In analysing this argument, the Commission found it necessary to draw certain distinctions. First, detention and arrest are not synonymous with one another. The Supreme Court of Canada has ruled that to have legal effect an arrest must involve detention.²⁰ No such ruling, however, suggests that detention must involve arrest. Indeed, when this subject was recently considered by the Supreme Court, Mr. Justice Ritchie, speaking for the majority, said,²¹

It appears to me to be obvious that the word “detention” does not *necessarily* include arrest, but the words “detain” and “detention” as they are used in s.2(c) of the Bill of Rights, in my opinion, connote some form of compulsory restraint....

The second distinction that must be drawn is between voluntary and involuntary detention. In a strictly technical sense ‘voluntary detention’ is not

19. See also paras. 18, 207.6, 233.1, 241.1, 245, 257.1, 319.3 of the *Manual*.

20. R. v. Whitfield (1970) 1 C.C.C. 129. See also R. v. Liebrecht (1979) 10 C.R. (3d) 179.

21. In Chromiak v. R. (1980) 1 S.C.R. 471.

really detention at all. Yet detentions made with some degree of express or implied consent are more common in routine security work. In an industrial context, such as that in which Post Office security personnel work, the terms of collective agreements, departmental or plant rules and regulations, and the general concept of management rights are of critical importance in this regard. Frequently these may authorize detentions which, in other contexts, would not be lawful.

Such detentions may or may not be related to security objectives, but are an inevitable attribute of management rights. The collective agreements currently in force in the Post Office provide for circumstances in which detentions may be required. Article 33.02 of the C.U.P.W. agreement, for example, provides in part:

The Employer shall conduct such investigations as may be necessary to determine the circumstances surrounding accidents on the job.

Clearly, this implies an obligation on the part of employees to cooperate in such investigations which may involve voluntary detention. Because these powers tend to be quasi-legal, they are subject to negotiation between management and labour. As a result they are, in theory at least, capable of being expanded or contracted.

While the type of investigation referred to above is unlikely to be a security matter, examples where management rights more or less commit employees to agree to voluntary detention for security purposes are not hard to find. The Plant Rules and Regulations under which postal employees currently work in two of the Toronto-area processing plants, for instance, give security guards a variety of powers which, by implication, entail at least a minimal degree of detention. These regulations give security personnel the "right to challenge Post Office employees and non-Post Office employees while in Post Office buildings", the "right to determine if parcels in anyone's possession have been properly cleared according to regulations", the "right to examine merchandise of value being carried by Post Office employees", and the "right to challenge drivers of vehicles entering or leaving the Post Office premises".

The exercise of such management rights obviously overlap the realm of involuntary detention. Where an employee is not obliged to agree to being detained and refuses to voluntarily remain or be "interviewed", any detention is *ipso facto* involuntary. Such detention need not involve actual physical

restraint. If a person feels he has no practical alternative but to remain, the law will consider him to be involuntarily detained.²²

There are circumstances, in which involuntary detention that is not incidental to an arrest may be lawful. Section 30 of the Criminal Code, for example, provides:

Every one who witnesses a breach of the peace is justified in interfering to prevent the continuance or renewal thereof and may detain any person who commits or is about to join in or to renew the breach of the peace....

More generally, it can be argued that section 25(1) of the Criminal Code makes any detention lawful if it is necessarily incidental to the effective exercise of any legal power.²³ This provision reads as follows:

S.25(1) Criminal Code:

Every one who is required or authorized by law to do anything in the administration or enforcement of the law

(a) as a private person...

is, if he acts on reasonable and probable grounds, justified in doing what he is required or authorized to do and in using as much force as is necessary for that purpose.

The provisions of the Criminal Code relating to the lawful use of force by private persons to prevent the commission of offences (section 27), to suppress riots (section 32(4)), to prevent assaults (sections 34-37), and in defence of movable and real property (sections 38, 39, 41 and 42(3)), will be discussed in detail in a later section of this chapter. They are, however, of some relevance here. These provisions may include a limited right of detention to the extent that it is necessary and ancillary to the use of force.

These examples illustrate the right to detain which postal security personnel now have. Although the discussion has been cast mostly in terms of security personnel in general, it applies equally to postal inspectors in particular.

Power of search

The concept of search covers a wide variety of activities and characteristics. Searches may be of persons or of real or personal property. They may be inspectorial or investigative; they may be effected through human agency

22. See, for example, Conn v. David Spencer Ltd. (1930) 1 D.L.R. 805 and Chaytor et al. v. London, New York and Paris Association of Fashion Ltd. (1962) 30 D.L.R. (2d) 527.

23. The decision of the Supreme Court of Canada in Eccles v. Bourque, Simmonds and Wise (1975) 1 W.W.R. 609 throws some doubt on the extent to which such provisions may be interpreted as authorizing actions which are not specifically authorized by statute.

or by means of mechanical (usually electronic) devices; they may be conducted openly or surreptitiously; they may involve human contact of the utmost intimacy or no human contact at all; they may be conducted with or without a warrant; they may be continuous or sporadic; and they may be conducted randomly or selectively. The concept of search frequently includes electronic surveillance.²⁴ Electronic visual surveillance is considered separately in Chapter 3 of this report.

Although there is nothing in section 443 of the Criminal Code preventing a justice of the peace from issuing a search warrant to a postal inspector, the Commission is aware of only three occasions on which inspectors succeeded in obtaining a warrant. The Commission was asked to consider the difficulties of a postal inspector who, even when a search is urgent, has to convince a peace officer to apply for a warrant based either on the inspector's affidavit or on the knowledge which the officer has recently acquired from the inspector. Often, peace officers are otherwise occupied and by the time they are able to conduct the search the evidence sought is no longer available.

It was often stressed that the postal inspector, by his training and intimate knowledge of the Post Office and the movement of mail, is a highly specialized person whose presence at the scene of a search is indispensable for the identifying of Post Office property.

Peace officers

(i) Criminal Code

The issuance of search warrants by justices of the peace or magistrates is a discretionary action and not a mere legal formality or ministerial order. The power is conferred by section 443 of the Criminal Code which says:

- (1) A justice who is satisfied by information upon oath in Form 1, that there is reasonable ground to believe that there is in a building, receptacle or place
 - (a) anything upon or in respect of which any offence against this Act has been or is suspected to have been committed,
 - (b) anything that there is reasonable ground to believe will afford evidence with respect to the commission of an offence against this Act, or
 - (c) anything that there is reasonable ground to believe is intended to be used for the purpose of committing any offence against the person for which a person may be arrested without warrant,

24. See, for example, Arnold, S.R., "Electronic Visual Surveillance and the Right of Privacy: When Is Electronic Observation Reasonable?" (1978) 35 Washington and Lee Law Review 1043-1063.

may at any time issue a warrant under his hand authorizing a person named therein or a peace officer to search the building, receptacle or place for any such thing....

There are also provisions in the Criminal Code which allow a peace officer to conduct a search without a warrant. Section 99, for example, allows an officer, acting on reasonable and probable grounds, but without a warrant to search "a person or vehicle or place or premises other than a dwelling-house" for prohibited or restricted weapons.

(ii) Other federal statutes

Broad powers of search are conferred on peace officers by other federal statutes such as the Narcotics Control Act, the Customs Act, the Excise Act, and the Food and Drugs Act. These not only provide a wider power of search (including the right to search persons found on the premises) but also empower a peace officer to use a writ of assistance issued by a federal court judge as a blanket authority to conduct searches. It is not necessary to examine each of these legislative enactments in detail, but they must be kept in mind when considering the powers of search conferred upon peace officers.

(iii) Common law and the search of persons

"The peace officer has a common law right to search a person, although that search is limited to that which is incidental to the making of an arrest or the continued detention of a prisoner in safe custody".²⁵ After an arrest a peace officer may search a person for anything which may be helpful as evidence of the crime for which the prisoner was arrested. He may also search for and remove any weapons which might be used to effect escape. As an adjunct, a peace officer has the right to use as much force as is necessary to effectively conduct such a search.

Postal inspectors and security guards

Powers of search are important to security work. Their routine exercise can have a disciplinary and deterrent effect in the industrial context. However, they may also involve very considerable intrusions upon personal privacy and are only permitted sparingly by law.

While section 443 of the Criminal Code provides for the issuance of search warrants to non-peace officers, there is some legal doubt as to who may validly execute such a warrant. The doubt springs from an apparent

25. Re Laporte and. R. (1972) 8 C.C.C. (2d) 343 at p.350.

inconsistency between subsections(1) and (3). Section 443(1) provides that a warrant may authorize "a person named therein or a peace officer" to search, etc. Section 443(3), however, provides that a warrant "may be in Form 5", and a warrant in Form 5 is clearly addressed to "peace officers in the said (territorial division)". Although the point has not been resolved by the courts, the express provision of subsection (1), together with the permissive terminology of subsection (3), suggests that a warrant may be legally executed by a person who is not a peace officer. It seems unlikely that the courts could regard the fact that a warrant is issued to a person who is not a peace officer as a substantial variation from Form 5.²⁶

There is, therefore, no legal impediment to postal inspectors applying for and executing search warrants. Their difficulty in obtaining them is of a more practical nature. First, judicial officers appear to be reluctant to issue search warrants to persons who are not peace officers. In this connection, it is important to note again that the issuance of search warrants under section 443 is discretionary, not mandatory. Secondly, current Post Office policy does not approve of such action. The official definition of the functions of postal inspectors, *The Manual of Information for Postal Inspectors*, makes it clear that they are not authorized by the Post Office to seek or execute search warrants.

Postal Investigators have no authority to obtain or to act on a Search Warrant without the presence of the police and when the need for searching becomes necessary, the Police should be consulted.

It is quite clear that search warrants under section 443 are to be issued only in connection with specific criminal investigations. For the most part, search warrants under other federal and provincial statutes are only available to peace officers or other persons with special status (for example, liquor inspectors). Similarly, powers of search without warrant, in both federal and provincial legislation, generally apply only to peace officers and other specially designated persons.

Certain sweeping powers of search without warrant, however, are technically available to postal inspectors now. Subsection 48(3) of the Post Office Act gives postal inspectors conducting investigations the powers of commissioners appointed under Parts II and III of the Inquiries Act. Section 7 of the Inquiries Act is particularly pertinent. It provides that:

26. Cases on this point are reviewed in Fontana, J.A., *The Law of Search Warrants in Canada* (Toronto: Butterworths, 1974), at pp.19-21 and 38-40.

The commissioner or commissioners may, for the purposes of investigation, enter into and remain within any public office or institution, and shall have access to every part thereof, and may examine all papers, documents, vouchers, records and books of every kind belonging thereto....

Although the Post Office Act gives these statutory powers to postal inspectors, current Post Office policy severely restricts their exercise. Paragraph 25.4.2 of the *Manual of Information for Postal Inspectors* states,

Such powers, however, are not to be used without the prior approval of the Director, Security and Investigation Services or the Director, Legal Services.²⁷

Information received by the Commission indicates that permission to use these extensive powers has been given on only two occasions.

Apart from these statutory powers of search, there are the rights of search under the common law and in the exercise of management rights. It should be stressed, however, that while there is no doubt that peace officers making arrests in Canada have incidental powers of search under common law, it has never been definitively determined by the courts that other persons making arrests have the same rights. The extent and implications of management rights in regard to searches, which is the most common justification for searches in industrial settings, has been the subject of a considerable amount of "arbitral jurisprudence" (the quasi-law of arbitrators, adjudicators, labour relations tribunals, etc.), as well as of a few court decisions. These decisions establish that the concept of management rights may, depending on the particular circumstances, embrace the right to have security personnel conduct personal or property searches, on a selective or random basis. The decisions, collectively, are instructive in spelling out the kinds of circumstances and considerations which will normally justify the exercise of such powers.²⁸

A review of Post Office policies, of the two major collective agreements, and of the information supplied to new employees at one Toronto location, as well as interviews with Toronto postal inspectors, reveals that while searches of employee property are sometimes conducted, both by postal inspectors and by security guards, the publication of policies and procedures in this regard is less than adequate. The collective agreements do not

27. This refers, in both instances, to the national directors. With respect to the exercise of these powers, see also paras.27, 230, 252.2(d), 258.3 and 258.4 of the *Manual*.

28. See, Re Board of Governors of Riverdale Hospital and Canadian Union of Public Employees, Local 43 (1977) 14 L.A.C. (2d) 334 (search of employee's automobile); Re Johnson Matthey and Mallory Ltd. and Precious Metal Workers' Union, Federal Local 24739 CLC (1976) 10 L.A.C. (2d) 354 (personal searches of employees); and Re Amalgamated Electric Corp. Ltd. (Markham) and International Brotherhood of Electrical Workers, Local 1590 (1974), 6 L.A.C. (2d) 28 (search of employee's private effects).

contain specific reference to search procedures. The new employee information kit which was supplied to the Commission, while it contained warnings with respect to the serious consequences of employee theft, etc., contained no reference to any liability of an employee to be searched, or to have his property searched, while on Post Office premises. A staff memo, which apparently was posted on the bulletin boards, was to the same effect. A set of Plant Rules and Regulations, which included significant authority for security guards to search and confiscate the property of employees, was made available only to security officers. It was not made available to employees generally, or posted on bulletin boards. The Commission was told that employees could see such rules on request, but they were not routinely informed of their existence. Furthermore, the "conditions of employment" form and the "Plant Rules", which were included in the new employee information kit for this same location, contain no specific reference to search, or to the various "rights" of security guards listed in the Plant Rules and Regulations.

With respect to national policies, Postal Standards and Guidelines No.51-1-8, Security Guards (20th January, 1975), contains no specific reference to search powers of security guards, beyond the bare statements that "they may be instructed to enforce certain in-plant rules and regulations relating to security", and that their duties "may include" the following: "enforce security rules and regulations", "enforce systems designated to control access" and "contact with the public at access points". In August, 1980, Directive No. 028-050-1 replaced the 1975 instruction; however, the new directive has the same lack of precision as its predecessor.

As far as postal inspectors are concerned, the *Manual of Information for Postal Inspectors* is not much more informative. Paragraph 121.1 provides:

Searches submitted to voluntarily and witnessed, may be conducted by Postal Investigators but extreme caution is to be exercised when females are involved (services of Police Matron should be enlisted) or juveniles are involved (parents or guardian should be present — see Manual Chapter dealing with Juveniles). Refusal to submit to voluntary search must be respected and require the services of Police Officer.

Search procedures pursuant to management rights relate only to employees. Agreements between employees and employer concerning such procedures are not, of course, binding on customers or the general public. In dealing with the public, the powers of search by security personnel, apart from specific statutory or common law provisions, are based on property rights. As discussed above, search procedures are usually established, if at all, as conditions of access to, or use of, corporate property, generally stated

through unilaterally posted notices, or through express or implied contractual agreements.

Again, Post Office documents reveal little written policy either with regard to searches of members of the general public using Post Office premises or with regard to persons in a contractual relationship with the Post Office, such as those who transport mail under contract. Postal Standards and Guidelines, No.51-1-8, and the *Manual of Information for Postal Inspectors* contain no references to specific policies in this regard; nor has the Commission found any written training materials on this subject.

Plant Rules and Regulations from the Toronto area in dealing with the authority of security guards, does contain instructions from which limited rights to search the property of persons other than postal employees can be inferred. Under the heading, "Authority", guards are told they have:

1. The right to challenge Post Office employees and non-Post Office employees while in Post Office buildings.
2. The right to determine if parcels in anyone's possession have been properly cleared according to regulations — otherwise, to detain the parcel until properly cleared.
3. The right to challenge drivers of vehicles entering or leaving the Post Office premises, to satisfy that the vehicle is furthering Post Office business.

Six numbered "rights" are listed in this fashion (the others concern only postal employees), and these are followed by six numbered "methods" by which the "rights" are to be exercised. The "methods" consist of *pro forma* statements which security officers are to use in exercising the "rights". Unfortunately, the numbered "methods" do not correspond with the numbered "rights". Nevertheless, two of the "methods" give further reason to believe that the "rights" are intended to include limited powers of search. The document states:

The method by which Security Officers will carry out their authority is as follows....

2. (Sir/Madam) — This challenge is for you to identify yourself and demonstrate the contents of the parcel that you are carrying or show proper clearance for the article....
4. (Sir/Madam) — This challenge is made for you to produce evidence of permission for parking the vehicle you are driving on Post Office controlled premises.

The Commission has not ascertained the extent to which this local Toronto policy reflects those in force elsewhere. Nor is it clear whether, and how, members of the public who may be searched under such policies are made aware of them. As a variety of corporate defendants in suits for damages for false imprisonment and assault have found out to their cost, proper notification is essential.

Finally, on the subject of search, specific mention should be made of sections 38 and 39 of the Criminal Code which provide for self-help in defence of movable property, which probably could include limited search powers.²⁹ Section 38(1) is especially pertinent in this regard. It provides:

- (1) Every one who is in peaceable possession of moveable property, and everyone lawfully assisting him, is justified
 - (a) in preventing a trespasser from taking it, or
 - (b) in taking it from a trespasser who has taken it, if he does not strike or cause bodily harm to the trespasser.

Consent searches

Much was said to the Commission about the types of consent to conduct searches that have been obtained by postal authorities. Special concern was expressed over whether some of the consents given are voluntary or are extracted in such a way as to render them invalid. First, let it be stated that this question does not apply to the search of an employee's locker. Lockers are Post Office property which employees agree, when they are allocated, are liable to search. Although it would be preferable to have this consent in writing, an oral understanding is acceptable in law.

On the broader question of the 'voluntary' nature of the consent received for other types of searches, a recent decision of the Supreme Court of Canada is instructive.³⁰ The case involved the issue of consent under the Criminal Code with respect to electronic surveillance. The court held that while a consent must be voluntary in the sense that it may not be the result of coercion, it need not be voluntary in the sense that a confession must be. The court held that consent must be the conscious act of the consentor freely given for reasons which appear to him to be sufficient.

In another case³¹ before the Supreme Court of Canada Mr. Justice McIntyre said "the consent must not be procured by intimidating conduct or

29. It is conceivable that section 27 (use of force to prevent commission of an offence) also implies such powers.

30. Rosen v. R., 1980 13 C.R. (3d) 214.

31. Goldman v. R., 1980 13 C.R. (3d) 228 at p.257.

by force or threat of force (by the police) but coercion, in the sense in which the word applies here, does not arise merely because the consent is given because of promised or expected leniency or immunity from prosecution".

These decisions answer the legal point associated with the criticism that consent is sometimes begrudgingly given to postal inspectors for searches.

Power of seizure

Closely related to the power of search is the power of seizure. Similarly, the arguments used in favour of postal inspectors having power to seize are parallel to those used for the power to search.

Peace officer

In general, anything seized by a peace officer holding a search warrant under section 443 of the Criminal Code³² is disposed of in accordance with section 446 of the Code. The section extensively provides the procedures to be followed by peace officers in this regard. It includes provisions for the safe keeping of seized material and for its return to its lawful owner or, alternatively, its forfeiture according to law.

Postal inspectors and security guards

In discussing the powers of seizure of postal inspectors, a distinction must be made between property owned by the Post Office or in which the Post Office has a legally protected interest, and property in which the Post Office has no legally protected interest (e.g., the personal property of employees). There is no doubt that, if duly authorized by the Post Office, security personnel may always seize property in which the Post Office has an interest unless, of course, the person from whom it is to be seized has a legal interest which takes precedence over that of the Post Office (e.g., by virtue of a lease or some other contractual arrangement). Section 41 of the Post Office Act provides that except for undeliverable mail, "... mailable matter becomes the property of the person to whom it is addressed when it is deposited in a post office". The courts, however, have held that while such matter is in the course of post, the Postmaster General has a "special property or interest" in it for the purposes of the law of theft (sections 283 and 314, Criminal Code).³³

32. It is not deemed necessary to discuss under this heading the powers of seizure in the Criminal Code with respect to gambling offences, currency, explosives, offensive weapons and so forth.

33. See *R. v. Cumming* (Ont. C.A.) (1961) 130 C.C.C. 107, and *R. v. Wendland* (Sask. C.A.) (1971) 1 C.C.C. (2d) 382.

There is no doubt that, when exercising their powers under section 48 of the Post Office Act, inspectors have the right to seize property belonging to or entrusted to the Post Office as may be necessary for the effective conduct of an investigation. This right, of course, is subject to their having lawful access to the property. Thus, in order to seize Post Office property from the private residence of a postal employee, for instance, either the owner's consent or a search warrant is required.

The property of others, whether employees or customers, can normally only be seized with the consent of the owner or pursuant to a search warrant. A search warrant permits the person executing it to seize the items named in it and "anything that on reasonable grounds he believes has been obtained by or has been used in the commission of an offence" (section 445, Criminal Code). It also permits seizure of "any explosive substance that he suspects is intended to be used for an unlawful purpose" (section 447). Similarly, offensive weapons and firearms are liable to seizure.

A peace officer also has the right to seize certain kinds of property when making a lawful arrest. This right was described by Mr. Justice Beck.

After making an arrest an officer has the right to search the prisoner, removing his clothing, if necessary, and take from his person, and hold for the disposition of the trial court, any property which he in good faith believes to be connected with the offence charged, or that may be used as evidence against him, or that may give a clue to the commission of the crime or the identification of the criminal, or any weapon or implement that might enable the prisoner to commit an act of violence or effect his escape.³⁴

As noted above, however, it has not been clearly established that these rights of search and seizure are available to persons other than peace officers who make arrests.

The only other statutory provisions which can be construed as giving persons who are not peace officers powers of seizure without warrant, and which are of relevance to Post Office inspectors, are sections 38 and 39 of the Criminal Code which were discussed above in relation to searches.

The right to detain, at least temporarily, the property of others may sometimes be an element of management or property rights (for example, as a condition of employment or of access to property). It is not uncommon in commercial, industrial and institutional settings such as retail stores, factories

34. Gottschalk v. Hutton (1921) 36 C.C.C. 298, at 301-302. See also R. v. McDonald, R. v. Hunter (1932) 59 C.C.C. 56; R. v. Brezack (1949) 96 C.C.C. 97. These cases are discussed in Stenning and Shearing, *Search and Seizure: Powers of Private Security Personnel*, (Ottawa), Minister of Supply and Services, 1980, a study paper prepared for the Law Reform Commission of Canada, at pp.61-64.

and museums to require visitors to leave bags and other property in the custody of security personnel. The Plant Rules and Regulations of the Toronto-area plants mentioned earlier confer on security guards the following rights to detain property that may not belong to the Post Office.

2. The right to determine if parcels in anyone's possession have been properly cleared according to regulations — otherwise, to detain the parcel until properly cleared....
5. The right to challenge an employee with a broken parcel or letter under suspicious circumstances and to discontinue the handling of the article until his/her Supervisor has been notified.

The document does not make clear what notification, if any, is given to persons whose property may be subject to the exercise of these "rights". With proper notification, such detention is perfectly legal. Without notification, the security guards and the Post Office may be held legally liable for detaining private property.

Power of investigation and interrogation

The investigation of a crime almost invariably leads to the questioning of suspects. At first glance, the Post Office Act appears to grant far greater powers of investigation and interrogation to postal inspectors than are given to public police forces. As discussed earlier, section 48(3) of the Act gives inspectors the powers enjoyed by a commissioner under Parts II and III of the Inquiries Act. It will be recalled that paragraph 48(1) appoints postal inspectors "to investigate and report on the state and management of the business" of the Post Office "including, without limiting the generality of the foregoing, the conduct of any postal employee, mail contractor or employee of a mail contractor" The powers of postal inspectors under this section cover the activities of a large number of persons.

It has already been noted, however, that the policy of the Post Office is that these powers are not to be exercised without the prior approval of the National Director, Security and Investigation Services, or the National Director, Legal Services. In conducting their enquiries, therefore, and in interrogating suspects, postal inspectors have only the same rights as any other citizen to ask questions, and no greater right to receive answers. They do, however, have as a sanction the other power vested in them by 48(3) of the Post Office Act, viz., the right to "suspend any postal employee suspected of misconduct in office". Post Office policy does not forbid the use of this provision of the Act. Indeed, Postal inspectors are specifically authorized to exercise this power.³⁵

35. Paragraph 27 of the *Manual of Information for Postal Inspectors*.

Where questions do relate to discipline, however, inspectors must conform to the collective agreements between the Post Office and the unions which provide:

The Employer agrees to notify an employee twenty-four (24) hours in advance of any disciplinary interview or disciplinary counselling session and to indicate the purpose of the meeting, including whether it involves the employee's personal file. If the employee fails to appear for the interview, and does not explain his inability to do so, the Employer shall proceed unilaterally.

Other parts of the agreements provide that the employee is entitled to be represented by a union representative when summoned for disciplinary reasons, "so that the latter may know what the situation is and contribute to its clarification", and that union stewards are not to be "hindered, constrained, prevented nor impeded in any way in the accomplishment of their duties while investigating complaints and representing employees" in the grievance process.

Some controversy has arisen in recent years over the relationship between these provisions of the collective agreements and the statutory powers of investigation which postal inspectors have under section 48 of the Post Office Act. In fact, the collective agreement cannot detract from the liability to criminal prosecution under the Criminal Code. Failure to conform to the requirements of a collective agreement may, however, invalidate disciplinary measures and procedures taken pursuant to that agreement.

Given the potential for conflict between the terms of the collective agreements and the provisions of section 48, postal inspectors have to exercise judgment in deciding whether to use their statutory powers in non-conformity with the agreement and jeopardize subsequent disciplinary proceedings,³⁶ or in conformity with the agreement and jeopardize the investigation. Postal inspectors have the legal right to exercise this judgment. In this connection, the fact that suspensions under section 48 have been held not to be disciplinary in nature is of some importance. A recent adjudication by the Public Service Staff Relations Board concluded that a postal inspector is "not exercising a disciplinary function" in suspending an employee.³⁷

One point discussed earlier needs to be reiterated here, that is, the extent to which postal inspectors may detain suspects for questioning after an arrest and prior to delivering them to a peace officer. Section 449(3) of the Criminal Code states that such delivery should be made "forthwith".

36. See, for example, the adjudication by Adjudicator J.C. Smith, of the Public Service Staff Relations Board, concerning grievances by Gary Bronson, Sherrill Cassidy and Karen Legere, December 12, 1977 (File Nos. 166-2-3302, 3303, 3304 and 166-2-3327, 3328, 3329), especially at pp. 12-15.

37. Adjudication of a grievance by A.G. Steele, June 20, 1980 (File No. 166-2-8050), at p.9, para.25.

Current interpretations of the term "forthwith" permit some latitude and suggest that persons making such arrests may even have a duty to attempt at least minimal verification of the commission of the offence before handing the suspect over to the police.

Jurisprudence on the admissibility of statements as evidence applies equally to postal inspectors as to public police. As "persons in authority" they must satisfy the court that a statement was voluntary. A caution prior to interrogation should be the general rule since statements must be proven to be free and voluntary, without hope of advantage or fear of prejudice. While oppressiveness by the investigators may exclude a statement, it is not the only grounds for exclusion. Courts scrutinize the circumstances surrounding the taking of a statement and almost invariably refuse to admit one obtained after denial of the right to counsel. The law does not require investigators to inform a suspect of his right to counsel but, when the request is made, it cannot be refused without serious consequences.

It is not necessary here to cover all aspects of admissibility of statements. It is sufficient to outline the above criteria and to emphasize, that all "persons in authority" are subject to the same rules.

Finally, on the subject of powers of investigation and interrogation, some comment is needed on the use of lie detectors. The Supreme Court of Canada has held that results of lie detector tests are not acceptable as evidence in criminal cases. They are used, however, for a variety of purposes by police and security personnel in Canada, including as an aid in investigations and as a means of employment screening. These uses of lie-detectors appear to be legal in Canada at the present time, and have never been successfully challenged either through the courts or through arbitration. Although one provincial government has attempted to introduce legislation to prohibit the industrial use of such devices,³⁸ as yet no such legislation has been enacted in Canada.

Allegations were made to the Commission that postal inspectors do use lie detectors during investigations. The Commission found no evidence, however, to support these claims. The Commission did discover that outside police forces have occasionally conducted polygraph tests while investigating criminal offences against the Post Office. It is possible that the allegations were related to public police activities and, therefore, beyond the terms of reference of this Commission.

38. See Manitoba, Bill No.20, 1979, Personal Investigations Act. The bill did not get beyond committee stage, but has apparently been re-introduced during the current session of the Legislature.

Use of force

Authority for postal inspectors to use force is directly related to their authority to make arrests, conduct searches and detain property. It, therefore must be considered as an aspect of the proposal to grant them peace officer status.

Section 25 of the Criminal Code gives peace officers a right to use force commensurate with their duties and authority. The force used must normally be proportionate to the gravity of the situation. Nevertheless, 25(4) allows peace officers and those lawfully assisting them to use any amount of force, including deadly force,³⁹ necessary to prevent a person from escaping lawful arrest.

Section 32(1) also permits a peace officer to use or order the use of "as much force as he believes, in good faith and on reasonable and probable grounds, (a) is necessary to suppress a riot, and (b) is not excessive, having regard to the danger to be apprehended from the continuance of the riot". While these controversial powers should rarely be of relevance to postal inspectors, during labour unrest involving mass violence they are not inconceivable.

Postal inspectors, like all other citizens, have the right to use force when acting in aid of a peace officer. Section 25 of the Criminal Code provides that:

- (1) Everyone who is required or authorized by law to do anything in the administration or enforcement of the law
 - (a) as a private person,
 - (b) as a peace officer or public officer,
 - (c) in aid of a peace officer or public officer, or
 - (d) by virtue of his office,is, if he acts on reasonable and probable grounds, justified in doing what he is required or authorized to do and in using as much force as is necessary for that purpose.
- (2) Where a person is required or authorized by law to execute a process or to carry out a sentence, he or any person who assists him is, if he acts in good faith, justified in executing the process or in carrying out the sentence notwithstanding that the process or sentence is defective or that it was issued or imposed without jurisdiction or in excess of jurisdiction.
- (3) Subject to subsection (4), a person is not justified for the purposes of subsection (1) in using force that is intended or is likely to cause death or grievous bodily harm unless he

39. See, Maratzear v. C.P.R. (1922) 37 C.C.C. 297.

believes on reasonable and probable grounds that it is necessary for the purpose of preserving himself or any one under his protection from death or grievous bodily harm.

- (4) A peace officer who is proceeding lawfully to arrest, with or without warrant, any person for an offence for which that person may be arrested without warrant, and every one lawfully assisting the peace officer, is justified, if the person to be arrested takes flight to avoid arrest, in using as much force as is necessary to prevent the escape by flight, unless the escape can be prevented by reasonable means in a less violent manner.

Section 27 provides:

Every one is justified in using as much force as is reasonably necessary

- (a) to prevent the commission of an offence
 - (i) for which, if it were committed, the person who committed it might be arrested without warrant, and
 - (ii) that would be likely to cause immediate and serious injury to the person or property of anyone; or
- (b) to prevent anything being done that, on reasonable and probable grounds he believes would, if it were done, be an offence mentioned in paragraph (a).

Sections 30, 32(4), 34 to 39 and 41-42 further provide for the use of force.

Essentially, postal inspectors, not being peace officers, have no greater or lesser rights to use force than any other private person. Force must be reasonable and in proportion to the needs of the legal task.

The use of force is, of course, controlled not only by a person being held liable under civil law for damages for its illegal use, but also by being liable under the criminal law to such charges as assault, wounding, illegal possession and use of weapons, etc. The general provision of section 26 of the Code is of particular importance here:

Every one who is authorized by law to use force is criminally responsible for any excess thereof according to the nature and quality of the act that constitutes the excess.

Protection for *bona fide* mistakes

It was argued before the Commission that postal inspectors, not being peace officers, were afforded little or no protection under the Criminal Code. It was contended that an error in judgment could have serious negative effects on an inspector's career, even if the end which he sought was

perfectly justified. Peace officers, on the other hand, are protected by the Code while executing their duties. This argument raises the question of what protection, if any, is afforded to postal inspectors.

While it is clear that Post Office security personnel are not peace officers, they have the legal status of public officers for the purposes of the Criminal Code. That status also carries with it some measure of protection. A 'public officer' is defined in section 2 of the Code as follows:

'public officer' includes

- (a) an officer of customs or excise,
- (b) an officer of the Canadian Forces,
- (c) an officer of the Royal Canadian Mounted Police, and
- (d) any officer while he is engaged in enforcing the laws of Canada relating to revenue, customs, excise, trade or navigation.

While postal inspectors do not fall within paragraph (a), (b) or (c) of this definition, it is conceivable that they may fall within paragraph (d). Even if they do not, they may qualify on the grounds that the specific examples of public officers listed in the definition are not intended to be exhaustive. To take the first of these propositions, postal inspectors could be included under paragraph (d) of the definition as officers "engaged in enforcing the laws of Canada relating to revenue". Inspectors investigate (and sometimes prosecute) offences relating to "postal values" and the proper accounting for, and handling of, postal revenues. Examples of these offences can be found under section 65 of the Post Office Act (conversion of public monies), and under section 92 of the Financial Administration Act⁴⁰ (offences connected with the collection, management or disbursement of public money).⁴¹

The Commission is not aware of any court decision which settles the question of whether postal inspectors are public officers for the purposes of the Criminal Code. The few extant cases in which the definition of "public officer" has been considered, however, are instructive. In these cases the courts have taken an expansive rather than a restricted view. Recently Mr. Justice Hugessen of the Quebec Superior Court held that an agricultural inspector, acting under the Quebec Municipal Code, was a public officer for the purposes of sections 2 and 118 (obstructing a public officer in the execution of his duty) of the Criminal Code.⁴² In handing down this decision, the judge said:

40. R.S.C. 1970, c.F-10. In this connection, see section 79 of the Post Office Act.

41. Section 2 of the Act defines "public money" as including "duties and revenues of Canada".

42. R. v. Cartier, R. v. Libert (1979) 43 C.C.C. (2d) 553, at 555.

The expression ‘fonctionnaire public’, in English ‘public officer’, is one which, in the common law, has always been interpreted in a very wide way. In 30 Hals., 3rd ed., p.684, para.1319, the following definition is found: ‘One who discharges any duty in the discharge of which the public are interested’.

These suggest an expansive interpretation indeed, of the definition of ‘public officer’. In the Labelle case cited by Mr. Justice Hugessen, for example, the person involved was a municipal plumbing inspector who not only did not fall within the definitions in paragraphs (a), (b) or (c), but also could hardly be said to be “engaged in enforcing the laws of Canada⁴³ relating to revenue, customs, excise, trade or navigation”, under paragraph (d). If this line of authority is correct, there is a strong case to be made for concluding that postal inspectors are “public officers” for the purposes of sections 2 and 118 of the Criminal Code.

While the status of “public officer” is of relevance by virtue of a number of statutes,⁴⁴ the provisions of greatest importance in this context are those of the Criminal Code. In particular, section 118(a) of the Code provides that:

118. Every one who

(a) resists or wilfully obstructs a public officer... . in the execution of his duty or any person lawfully acting in aid of such an officer,

is guilty of

(d) an indictable offence and is liable to imprisonment for two years, or
(e) an offence punishable on summary conviction.

Recent decisions of the Supreme Court of Canada have taken a broad view of what constitutes “the execution of his duty” under this section.⁴⁵ As a result, section 118 considerably enhances the authority of any one who is regarded as a “public officer”.

In carrying out his responsibilities as a public officer, section 118(a) of the Criminal Code imposes criminal liability on anyone who “wilfully obstructs” the investigations of a postal inspector. Section 26(2) of the Interpretation Act, must also be borne in mind.

Another provision of importance is section 246(2)(a) of the Criminal Code, which makes it an offence to assault “a public officer... . engaged in

43. The term “laws of Canada”, when used in federal statutes, generally refers only to provisions of federal legislation. Cf. section 5(2) of the Canadian Bill of Rights, R.S.C. 1970, Appendix III.

44. See, for example, section 2 of the Interpretation Act, R.S.C. 1970, c.I-23; section 2 of the Financial Administration Act, R.S.C. 1970, c.F-10.

45. See, Knowlton v. R. (1973) 10 C.C.C. (2d) 377; R. v. Biron (1976) 23 C.C.C. (2d) 513; Moore v. R. (1979) 5 C.R.(3d) 289. See also R. v. Westlie (1971) 2 C.C.C. (2d) 315 (B.C.C.A.).

the execution of his duty, or a person acting in aid of such an officer". While common assault under section 245 of the Code is a summary offence carrying a maximum penalty on conviction of six months' imprisonment or a fine of \$500, or both, assaulting a public officer is a "dual" offence — either indictable or summary at the option of the Crown — and if prosecuted on indictment carries a maximum penalty of five years imprisonment.

Furthermore, section 118(b) of the Criminal Code makes it an offence for any one to fail, without reasonable excuse, to assist a public officer in the execution of his duty in arresting a person or in preserving the peace, after being properly required to do so. In sum these various provisions amount to considerable authority for postal inspectors in performing their duties.⁴⁶

Access to police information

The Commission heard arguments that postal inspectors need better access to police information banks and to criminal records. While the witnesses appeared generally uncertain about the rules governing access to these sources of information, many felt that the absence of peace officer status was a definite handicap. They also felt that the lack of access hindered their investigations and in some cases precluded them from focussing attention on persons whose previous criminal record for similar offences made them prime suspects.

Access to prior arrest and conviction information with respect to employees, or applicants for employment, or suspects in an investigation, is considered important by many security personnel. Postal inspectors are no exception in this regard. The present legal position is that inspectors are neither legally entitled to, nor legally prohibited from, access to such information.

As far as police information is concerned, access is the prerogative of the police force which holds the information. Rules governing access are generally set administratively or, sometimes, in by-laws or regulations enacted by municipal police commissions,⁴⁷ and are not usually published.⁴⁸ The rules are usually in the form of guidelines and leave discretion to the police as to whom they will provide with the information.

46. It should be noted that impeding an investigation by postal inspectors has also been held to constitute "misconduct sufficiently serious to warrant dismissal" of a postal employee: see *R. v. A Civil Service Commission Appeal Board, ex parte Benoit* (1966) 52 D.L.R. (2d) 391, at 396.

47. See, for example, section 16 of the Ontario Police Act, R.S.O. 1970, c.35.

48. The courts have held that the public has no legal right to see such regulations: see *Re McAuliffe and Metropolitan Toronto Board of Commissioners of Police* (1976) 9 O.R. (2d) 583.

The national Canadian Police Information Centre (CPIC), to which almost all police forces in Canada contribute information, is run by a Management Board, with provincial and federal representation. The Board is responsible for the rules governing access to the Centre's computerized information bank. These rules are purely administrative, and are not the subject of legal regulation. CPIC provides terminals only to accredited public police departments. Other organizations can be furnished with information from the computer at the request of a police department, provided the organization has been specifically designated, by either the Solicitor General of Canada or the Attorney-General of a province. In September, 1979, CN Police, CP Police, the National Parole Board, the Correctional Services and a number of departments including the Post Office Department were so designated by the Solicitor General.

If postal inspectors were given peace officer status they would not automatically gain direct access to a CPIC computer terminal. It may, however, diminish the reason for not giving them direct access.

The only legislation of some relevance to this question of access to police information, or at least to federally held information, is the Canadian Human Rights Act, Part IV of which is concerned with "Protection of Personal Information".

The provisions of the Canadian Human Rights Act, and regulations enacted thereunder, do not currently impose any legal constraints on access to police information by Post Office security personnel.

Criminal records are governed by the Criminal Records Act and the Identification of Criminals Act. The former, while it places restrictions on access to criminal records of persons who have received pardons, contains no specific restrictions on access to other records. The confidentiality of criminal records, however, is maintained by the fact that the only way to obtain information about them which is guaranteed to be reliable is through the submission of fingerprints. Restricted access to fingerprint records (and, therefore, to reliable criminal record information) is imposed pursuant to section 2(3) of the Identification of Criminals Act, which provides that:

The signaletif cards [fingerprint records] and other results thereof may be published for the purpose of affording information to officers and others engaged in the execution or administration of the law.

Again, these provisions do not impose any absolute legal constraint on access to criminal records information by postal inspectors.⁴⁹ Indeed, it is understood that they do have limited access to such information at present.

Independence from management

The discretion of members of public police forces to investigate, arrest and prosecute outside the reach of extraneous influence of management or politics is essential. This concept is seen as necessary to safeguard the independence of that arm of the criminal justice system. The Commission has been reminded on numerous occasions that the discretion to prosecute within the Post Office has been altogether too often influenced by management at the plant, district, regional and even, on occasion, the national level.

That the prosecutorial process could be influenced or suffer pressures from outside is an anathema to our system and ought not to occur. This independence does not only include judgment as to whether or not to prosecute but whether to withdraw or discontinue criminal proceedings. The Commission has been reminded by attorneys-general who communicated with the Commission that such an interference is not acceptable. They have reminded the Commission of instances of legal or illegal strike situations where crimes were observed, prosecutions launched and then abandoned as part of a settlement. They have properly condemned such a practice.

It would be presumptuous, however, to suggest that peace officers do not encounter such extraneous pressures. It is appropriate to quote from a study entitled, "Ministerial Responsibility for National Security", prepared by J.L.I.J. Edwards for the Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police. At page 72, he writes:

I venture to state that nothing is more calculated to engender public disillusionment with the criminal justice system and its constituent parts, — especially the police, the security service and the Crown prosecutors — than disclosures indicating a susceptibility to extraneous pressures. The greatest safeguard against the sullyng of these pillars of justice will be found in the integrity and sense of fundamental values that are nurtured by the individuals who have to administer the several parts of the system. Without these personal qualities any constitutional machinery or doctrine is extremely vulnerable.

This principle is not restricted to ministerial responsibility but transcends all administrative duties discharged by those who have the delegation or

49. The courts, however, have suggested that unauthorized police disclosure of criminal records information may constitute an offence under section 111 of the Criminal Code (breach of trust by a public officer), or (in Ontario) under section 69 of the Ontario Police Act, R.S.O. 1970, c.351 (inducing police officer to breach discipline); see *R. v. Chapman and Grance* (1972) 20 C.R.N.S. 141.

otherwise the power to suggest or influence prosecution. The greatest danger from such intrusion is that the influence may never protrude itself into public notice though the decision will be observed by a few and will only serve to bring the administration of justice into disrepute.

The structure within which postal inspectors operate lends itself too easily to a perceived or real interference and merits sufficient consideration to be addressed in the proposals of this Commission under a separate heading.

Chapter 5

Mail Opening

The use of mails is almost as much a part of free speech as the right to use our tongues.

Justice Oliver Wendell Holmes (1921)

Protection of the mail is a duty of postal inspectors and the Commission treated it as an aspect of postal security. It soon emerged during the hearings that mail opening by law enforcement agencies and Customs officers was a topic of some importance. It should be noted here that while there is no reference to the Royal Canadian Mounted Police in the Post Office Act, all members of the R.C.M.P. are also appointed as Customs officers. As such, there are specific provisions in the Post Office Act that relate to them.

Counsel were permitted to explore the issue of mail opening with witnesses and the Commission directed its researchers to examine the subject. In addition the Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police made available transcripts of the testimony it had heard. It was evident, from the testimony before that Commission and before this one, that there had been requests for cooperation in the opening of mail in the past, some of which were favourably met by Post Office employees. Despite recent publicity and criticism, requests have continued at least until the date of our hearings.¹ While this Commission heard no evidence that recent requests have been granted, the fact that they were made suggests a lack of awareness of the provisions of the Post Office Act (if not a profound misunderstanding of the concept of the sanctity of the mail) by members of various law enforcement agencies — federal, provincial and municipal.

Reading mail covers and conducting controlled deliveries seem to have become routine in certain types of investigations. It has been suggested that there is no prohibition against these activities and that they are not illegal. The term 'mail cover' has been defined, for the purposes of this analysis as

1. Transcript of evidence, pp. 1100-1101.

the process by which a record is made of data appearing on the outside cover of mail in order to obtain information for any purpose whatsoever. The requests for mail covers have been frequent although, again, there is no evidence that they have been granted in recent months.

Allegations were made to the Commission that Customs officers abuse their power to inspect mail. It was brought to the attention of the Commission that they have, on occasion, opened letters without the permission of the addressee. The power of Customs officers to open mail is not without limitation.

The protection of the mail entails not only safeguarding it from theft and other criminal attack, but also from interference. Such interference can be in the form of opening mail, reading or inspecting its contents, reading the outside covers to derive information not meant for public dissemination or delaying it in order to control its delivery.

The opening of mail is not always illegal. It can be done by Post Office employees and others within the confines of the law. On the other hand, under many circumstances the opening of mail is not only illegal, it carries with it a penalty under the law. To understand the nature of the problem, to make provision for the legitimate need to open mail and to safeguard against unwarranted interference it is, therefore, necessary to examine all aspects of mail opening, both legal and illegal. To that end, the following discussion has been organized under three headings:

- Mail opening;
- Mail opening by Customs officers;
- Mail covers and controlled deliveries.

At the time of writing, Parliament is considering Bill C-42, An Act to Establish the Canada Post Corporation. Throughout this report the Commission has sought to make its comments equally applicable to both the Post Office Act and Bill C-42. To do so in its analysis of mail opening, however, requires examination of the texts of both the Act and the Bill. To that end extracts from the two texts are presented side by side when required, especially when there is a substantial variation or when the provisions of the Bill are seen to be inadequate.

The Commission took as its starting point the proposition that mail is the subject of legally protected property rights and, therefore, if it is opened by anyone other than the person in whom those property rights are vested, or without that person's consent, such opening must find legal justification in

specific statutory provisions or in the common law. There are a variety of reasons why persons other than those in whom are vested the principal property rights may wish to open mail. These reasons include: to ascertain the address of the sender or of the addressee, if this is not clearly indicated on the cover, so that it can be properly delivered; to ascertain whether it contains dangerous (e.g., chemicals), life-threatening (e.g., letter bombs) or illegal (e.g., firearms, drugs, etc.) substances; to ascertain whether it contains written material which may be illegal (e.g. pornography) or which may be of interest in protecting national security (e.g., treasonous, seditious or terrorist material); to ascertain whether it complies with Post Office rules and regulations governing the manner in which items may be sent through the mail at particular rates of postage. These reasons may be put forward either by postal authorities or by other persons such as Customs officers or law enforcement authorities.

For the sake of simplicity, these various purposes for opening mail may usefully be summarized as follows:

- (1) the routine fulfilment of the recognized objectives of the Post Office in the efficient and effective collection, conveyance and delivery of mail;
- (2) the detection of criminal and other offences, and the identification and apprehension of offenders;
- (3) the detection of dangerous items in the mail and the prevention of injury or damage which may be caused by such items;
- (4) the detection and prevention of threats to national security, and the identification of persons who may represent such threats.

To analyze the questions surrounding mail opening, it is first necessary to define what is meant by 'mail'. The legal definition is different from common usage. Legally, "mail" changes its status at the moment it leaves the possession of the sender and at the moment it is delivered to the addressee. These changes in status affect the legality of interference with it. Some interference is expressly authorized by law in the Post Office Act, but only within certain defined categories of items. Thus, an appreciation of the definition of 'mail' is essential to understanding the law governing interference with mail.

Subsection 2(1) of the Post Office Act states:

'mail' means mailable matter from the time of its deposit at a post office to the time of its delivery.

For the purpose of the Post Office Act and postal regulations, therefore, an item is only mail from the time it is deposited at a post office until it is delivered. During that period it is "in the course of post".² These two points in time are defined as follows:

Post Office Act

2(1) 'deposit at a post office' means to leave in a post office or with a person authorized by the Postmaster General to receive mailable matter.

'post office' includes any building, room, vehicle, letter box or other receptacle or place authorized by the Postmaster General for the deposit, receipt, sortation, handling or dispatch of mail.

'delivery', as applied to mail, means delivery to the addressee thereof, and for the purposes of this Act

(a) leaving mail at the residence or place of business of the addressee,

(b) depositing mail in a post office lock box or rural mail box or any other receptacle provided for the receipt of mail, or

(c) leaving mail with the addressee or his servant or agent or with any other person considered to be authorized to receive mail,

Bill C-42

2(1) 'deposit at a post office' means to leave in a post office or with a person authorized by the Corporation to receive mailable matter.

'post office' includes any place, receptacle, device or mail conveyance authorized by the Corporation for the deposit, receipt, sortation, handling, transmission or delivery of mail.

'delivery', in respect of mail, means delivery to the addressee thereof.

(2) For the purposes of this Act,

(a) leaving mail at the place of residence or business of the addressee thereof,

(b) depositing mail in a post office lock box or rural mail box or any other receptacle or device provided for the receipt of mail of the addressee, or

(c) leaving mail with the addressee or his servant or agent or with any other person who may reasonably be considered to be authorized to receive mail by the addressee thereof,

2. Section 2(2) of the Act provides, "An article shall be deemed to be in the course of post from the time it is deposited at a post office until it is delivered". Section 2(3) of Bill C-42 is similarly worded.

according to the usual manner of delivering that addressee's mail, is deemed to be delivery to the addressee.

These provisions indicate more or less precisely *when* items are mail for the purpose of the Act. They do not, however, indicate *what* is mail for the purposes of the Act. The definition of 'mail' in subsection 2(1) provides that 'mail' means "mailable matter". 'Mailable matter' is then defined as follows:

Post Office Act

'mailable matter' includes anything that by this Act or any regulations may be sent by post.

according to the usual manner of delivering mail to that addressee, is deemed to be delivery to the addressee.

Bill C-42

'mailable matter' includes any message, information, funds or goods that by this Act or the regulations may be transmitted by post.

These definitions create a problem. The use of the word "includes" raises the legal question of whether the items listed in the Act (or Bill) and in the regulations are the only items that may be mailable matter, or whether these are merely some of the things that may be mailable matter.³ Paragraph 6(a) of the Act provides that the Postmaster General may make regulations, "prescribing, for the purposes of this Act, what is a letter and what is mailable matter and non-mailable matter".⁴

Since 'mail' means "mailable matter", and since the Postmaster General can regulate what is and what is not mailable matter, this provision in effect permits the Postmaster General to determine by regulation what is mail for the purposes of the Act. In fact, this power has only been used to define 'non-mailable matter'. No regulation exists which defines 'mailable matter'. By examining the Act and the regulations, it is thus possible to establish with reasonable clarity what is not mail. It is not always possible to say with equal clarity what is mail.

The classes of articles that are considered to be non-mailable matter are set out in the *Prohibited Mail Regulations*, the appropriate parts of which are found in Appendix E. It is sufficient to point out here a few of the more salient

3. For a case in which an expansive interpretation was given to the word "includes", see R. v. Cartier, R. v. Libert (1979), 43 C.C.C. (2d) 553. For a case in which a restrictive (exhaustive) interpretation was applied, see R. v. Laramee (1972), 9 C.C.C. (2d) 433.

4. Section 17(1) (a) of Bill C-42 provides: "The Corporation may . . .make regulations

(a) prescribing, for the purposes of this Act and the regulations, what is a letter and what is mailable matter, non-mailable matter and undeliverable mail;".

characteristics of non-mailable matter which suggest that in many cases it includes the types of items which postal authorities and law enforcement personnel might well be expected to have an interest in opening. These include:

- articles that by their nature or the manner in which they are packed may expose postal employees to danger;
- articles that may soil or damage other mail or post office equipment; explosive substances.

These categories are specified as being non-mailable matter for the purposes of the Post Office Act as well as for the purposes of the regulations. Such items, therefore, are not "mail". Thus, the provisions of the Post Office Act which prohibit interference with the mail as such (e.g., sections 58 and 59)⁵ do not apply. While this does not mean that interference with such items is always legal, it does mean that such interference is not necessarily in violation of the provisions of the Post Office Act.

The foregoing analysis can be summarized in three propositions:

- (1) What is referred to as mail in every day usage is often not mail for the purposes of the specific provisions of the Post Office Act concerning interference with the mail.
- (2) What constitutes mail for the purposes of the Post Office Act is not clearly defined in law, and is subject to regulations promulgated by the Postmaster General.
- (3) Certain types of items are specifically declared not to be mail for the purposes of the Post Office Act by the *Prohibited Mail Regulations*.⁶

In considering the legality of any interference with mail, it is essential that these propositions be kept in mind. Only interference with 'mail' as defined under the Post Office Act is of concern to this Commission.

Mail opening

Clearly, the opening of mail is not always illegal. In fact, to a limited extent, the Post Office Act specifically permits the opening of mail to protect its revenue, to assist users, and to protect the public. Since the legal aspect of mail opening hinges on its being an infringement of vested property rights,

5. Sections 40-41, Bill C-42.

6. Bill C-42 does not detract from the above remarks.

the first task in concluding whether the opening of mail is legal or illegal in any given case is to determine whose property the mail in question is. The second is to determine who is doing the opening. While the second determination is seldom difficult, the first sometimes is.

Mail not "in the course of post"

Ownership of items prior to deposit in the mail system normally resides in the sender. Opening an item without the consent of its owner, his agent or another person in lawful possession of it would therefore normally constitute both a criminal offence such as mischief under section 387(1)(c) of the Criminal Code (wilful interference with the lawful use, enjoyment, etc. of property) and a tort (trespass to property). It is not difficult to conceive of circumstances, however, in which opening such an item, even against the wishes of the person who owns it or is in possession of it, could be legally justified. It could, for example, be legally opened in the execution of a search warrant issued in accordance with section 443 of the Criminal Code, or during a search without warrant conducted in accordance with section 99 of the Criminal Code (searches for illegal weapons) or section 10 of the Narcotic Control Act (searches for illegal narcotics). A similar set of considerations governs the opening of items which have passed through the mail and have been delivered to the addressee.

Mail "in the course of post"

While the legal justifications for opening mail before it is deposited in the postal system apply with equal force to opening it after delivery, different considerations apply while the item is in the course of post. In the first place, the property rights to an item usually pass from the sender to the addressee at the time of mailing. However, this is not always so. The relevant provision of the Post Office Act is section 41. It states:

Subject to the provisions of this Act and the regulations respecting undeliverable mail, mailable matter becomes the property of the person to whom it is addressed when it is deposited in a post office.⁷

Two points must be noted. Section 41 refers only to mailable matter, and the proprietary interests of the addressee in such mailable matter are "subject to the provisions of the Act and the regulations respecting undeliverable mail". It leaves unanswered the question of who owns non-mailable matter which is deposited in the Post Office, and who owns mailable matter

7. Bill C-42 does not contain a similar provision.

which is in the course of post but which is "undeliverable mail". Because sections 44 and 45 provide for disposition of such items, it has to be assumed that the Department has an interest in these.

For the purposes of analysis, section 41 of the Post Office Act allows us to identify three distinct categories of material, two of which may be defined as 'mail' in a legal sense. These two are: deliverable mailable matter, and undeliverable mailable matter. The third category is non-mailable matter, and therefore not legally mail.

The provisions of the Post Office Act dealing with the legality of opening mail are of two kinds. There are provisions which expressly or implicitly authorize the opening of mail. There are those which expressly or implicitly forbid it. The application of these provisions to mail which is in the course of post varies according to the category of item: deliverable mailable matter; undeliverable mailable matter; non-mailable matter.

Provisions for opening mail

The most general authorization to open mail "in the course of post" is found in paragraph 5(1)(r)⁸ of the Post Office Act, which provides that the Postmaster General may:

determine in any particular case whether the conditions under which mailable matter may be sent by post have been complied with, and for such purpose may open any mail other than post letters.⁹

Subsection 5(3) of the Act permits the Postmaster General to delegate his authority to open mail "other than post letters" under paragraph 5(1)(r) to "assistant deputy postmasters general, regional general managers and directors of postal districts of the Post Office Department".

In the first place, it must be noted that the right to open mail under paragraph 5(1)(r) refers only to mail as defined in the Post Office Act. It does not, therefore, extend to non-mailable matter which, by definition, is not mail for the purposes of the Act.

Three other provisions of the Act are of particular relevance here. The first two permit the Postmaster General to make regulations prescribing what

8. An equivalent provision is found in section 17(1)(e) of Bill C-42.

9. Section 2(1) of the Act defines a 'post letter' as:

"any letter deposited at a post office, whether such letter is addressed to a real or fictitious person, is unaddressed, and whether intended for transmission by post or not, from the time of deposit at a post office to the time of delivery and includes any packet prepaid or payable at letter rate of postage".

Bill C-42 does not define 'post letter'.

is "mailable matter" and what is "non-mailable matter" (paragraph 6(a)) and to decide in any particular case whether an item is "mailable matter" or "non-mailable matter" (paragraph 5(1)(p)). The third provision is found in paragraph 6(g). It permits the Postmaster General to make regulations:

for excluding non-mailable matter from the mails and providing for the return to the sender or other disposition of non-mailable matter.

None of the regulations promulgated pursuant to these provisions, however, adequately resolve the basic problem. They nowhere expressly confer any right to open items of mail in order to ascertain if they contain "non-mailable matter". It would seem, therefore, that the authority to open mail (other than post letters) to determine whether it is, indeed, mailable matter can only be derived from a combination of two statutes. The general provision of paragraph 5(1)(p) of the Post Office Act allows the Postmaster General, an assistant deputy postmaster general or a director of the Post Office Department (see subsection 5(4)) to "determine in any particular case what is a letter, mailable matter or non-mailable matter". Since "non-mailable matter" may not always be readily identified by external inspection, it is then necessary to invoke subsection 26(2) of the Interpretation Act, which provides that:

Where power is given to a person, officer or functionary, to do or enforce the doing of any act or thing, all such powers shall be deemed to be also given as are necessary to enable the person, officer or functionary to do or enforce the doing of the act or thing.

It can be reasonably argued that subsection 26(2) of the Interpretation Act authorizes the opening of mail for the purposes of exercising the power granted under paragraph 5(1)(p) of the Post Office Act. Bill C-42 is much clearer in this regard. In fact, the wording of section 17(1)(e) of the Bill appears to resolve the problem.

While paragraph 5(1)(r) does not authorize the opening of an item to determine whether it contains mailable matter, it does authorize the opening of mailable matter other than post letters in order to determine whether it complies with conditions under which it may be sent by post. It extends only to postal officials. It does not extend to other persons. Similarly it does not bestow authority to open mail for any purpose other than to determine whether conditions for mailing have been complied with. If there is authority for others to open mail or for postal officials to open mail for other purposes, it will have to be found elsewhere in the Post Office Act.

Section 7 of the Act (section 39(1) of Bill C-42) deals with the procedures which may be invoked whenever the Postmaster General believes on reasonable grounds that any person,

Post Office Act

- (a) is, by means of the mails
 - (i) committing or attempting to commit an offence, or
 - (ii) aiding, counselling or procuring any person to commit an offence, or
- (b) with intent to commit an offence, is using the mails for the purpose of accomplishing his object.

Bill C-42

- (a) is, by means of mail,
 - (i) committing or attempting to commit an offence, or
 - (ii) aiding, abetting, counselling or procuring any other person to commit an offence,
- (b) with intent to commit an offence, is using mail to accomplish his object, or
- (c) is, by means other than mail, aiding, abetting, counselling or procuring any other person to commit an offence by means of mail.

The broad reference to "offences" generally in section 7 extends its applicability to any law, be it federal, provincial or municipal.¹⁰ The Postmaster General may prohibit the delivery of mail to or from the person concerned. Subsection 8(b) authorizes the Postmaster General to "detain or return to the sender any mail directed to the person affected and anything deposited at a post office by the person affected". Subsection 8(c) also permits the Postmaster General to,

declare any mail detained pursuant to paragraph (b) to be undeliverable mail, and any mail so declared to be undeliverable mail shall be dealt with under the regulations relating thereto.

The handling procedures for undeliverable mail are complex, and vary according to whether there is a sufficient or correct address or return address on the cover, whether the address is inside or outside Canada, and what class of mail is involved. Section 11 of the *Undeliverable and Redirected Mail Regulations* provides that:

Undeliverable mail that cannot be redirected or returned to the sender owing to an insufficient or incorrect address on the cover

10. For cases supporting such an interpretation, see R. v. Somerville, (1963) 3 C.C.C. 240; R. v. Howard (1972), 18 C.R.N.S. 395; and R. v. Stratton (1978), 3 C.R. (3d) 289.

of the mail shall be sent to the appropriate regional undeliverable mail office and

- (a) opened to determine whether it contains the address of the sender or addressee, in the case of mail posted in Canada;

This is the only provision in the *Undeliverable and Redirected Mail Regulations* which expressly confers authority to open mail.

Section 19 of the Regulations provides that:

Notwithstanding anything in these Regulations, undeliverable mail that is found to be non-mailable matter pursuant to the Prohibited Mail Regulations shall be dealt with in accordance with those Regulations.

The fact that this section places non-mailable matter under the *Prohibited Mail Regulations* provides little help on the question of mail opening. These Regulations contain no provisions expressly authorizing the opening of mail. Authority to open mail under these regulations must either be implied from the provisions for the destruction and other disposition of non-mailable matter, or by invoking subsection 26(2) of the Interpretation Act.

Subsection 7(5) of the Act allows any mail detained pursuant to subsection 7(8)¹¹ to be delivered to a Board of Review established to review a prohibition order made under that section. The Board of Review may open and examine such mail with the consent of the person against whom the prohibition order has been made.

Another provision of the Post Office Act which appears to confer a limited right to open mail which is in the course of post is section 14, which provides that:

Post Office Act

14. Subject to any regulations permitting the payment of postage by the addressee, and the provisions of any agreement or arrangement referred to in paragraph 5(1)(j) any post letter on which no postage has been paid by the sender shall be deemed

Bill C-42

17(1) The Corporation permitting may... make regulations

(f) providing for the opening of mail for the determination in any particular case whether the mail is undeliverable mail;

11. Subsection 39(7) of Bill C-42.

to be and shall be dealt with as undeliverable mail.¹²

(g) providing for the disposition of non-mailable matter, undeliverable mail and mail on which sufficient postage is not paid, including the disposition of any thing found therein;¹³

Section 44 of the Act¹⁴ furthermore provides that:

All undeliverable mail and all non-mailable matter found in the mails shall be sent to the section of the Department established by the Postmaster General for the receipt thereof and shall be dealt with as provided in the regulations.

And section 2(1) of the Act¹⁵ provides that:

'Undeliverable mail' means mail that for any cause cannot be delivered to the addressee and includes any mail the delivery of which is prohibited by law or is refused by the addressee or on which postage due is not paid by the sender on demand.

The same definition of 'undeliverable mail' appears in section 2 of the *Undeliverable and Redirected Mail Regulations*.

Any further right to open mail pursuant to these sets of regulations, can only be implied, possibly with the aid of subsection 26(2) of the Interpretation Act. It is noteworthy, however, that by defining 'undeliverable mail' to include "any mail the delivery of which is prohibited by law", the Post Office Act and regulations include in the category of "undeliverable mail" most of the items which postal authorities and law enforcement personnel might be expected to have some interest in opening. The delivery of such substances as illicit narcotic drugs, prohibited firearms and illegal explosive substances is certainly "prohibited by law" (see, for example, sections 80 and 92 of the Criminal Code). Any right to open mail which may be implied from the terms of the regulations, however, clearly accrues only to Post Office officials and not to other persons.

12. Paragraph 5(1)(m) of the Post Office Act authorizes the Postmaster General to "establish a section of the Department for the receipt and disposition, in accordance with this Act and the regulations, of non-mailable matter and undeliverable mail".

13. These provisions would resolve much of the current uncertainties as to the right to open mail (at least mail other than "letter") to establish whether it is "non-mailable matter" or "undeliverable mail".

14. Section 39(8) of Bill C-42.

15. Bill C-42 contains no similar provision.

Mail opening by Customs officers

Section 46 of the Post Office Act (Section 38 of Bill C-42) deals with the inspection of in-coming international mail for the purposes of importation and customs controls. The section provides:

Post Office Act

(1) All mail from a country other than Canada containing or suspected to contain anything subject to customs or other import duties or tolls or anything the importation of which is prohibited shall be submitted to a customs officer for examination.

(2) A customs officer may open any mail, other than letters, submitted to him under this section, and may

(a) cause letters to be opened in his presence by the addressee thereof or a person authorized by the addressee; or

(b) at the option of the addressee, open letters himself with the written permission of the addressee thereof;

and where the addressee of any letter cannot be found or where he refuses to open the letter, the customs officer shall return the letter to the Canada Post Office and it shall be dealt with as undeliverable mail in accordance with the regulations.

(3) A customs officer shall, in accordance with the laws relating to customs and the importa-

Bill C-42

(1) All mail from a country other than Canada containing or suspected to contain anything subject to customs or other import duties or tolls or anything the importation of which is prohibited shall be submitted to a customs officer for examination.

(2) A customs officer may open any mail, other than letters, submitted to him under this section and may

(a) cause letters to be opened in his presence by the addressee thereof or a person authorized by the addressee; or

(b) at the option of the addressee, open letters himself with the written permission of the addressee thereof;

and where the addressee of any letter cannot be found or where he refuses to open the letter, the customs officer shall return the letter to the Corporation and it shall be dealt with as undeliverable mail in accordance with the regulations.

(3) A customs officer shall deal with all mail submitted to him under this section in accordance

tion of goods, deal with all mail submitted to him under this section, and upon compliance with such laws, may deliver such mail to the addressee, subject to the payment of any postage due thereon, or may return it to the Canada Post Office for transmission through the post in the usual way.

(4) Any non-mailable matter found by a customs officer in any mail submitted to him under this section shall be transmitted to the Postmaster General to be dealt with in accordance with the regulations.

The right to open mail conferred by subsection 46(2) is limited in a number of important ways. First, subsection 46(1), limits it to incoming international mail. Secondly, a distinction is made between letters and other categories of mail. The Post Office Act, however, contains no definition of what is a letter and, therefore, what precisely is covered by subsection 46(2) is unclear, although paragraph 5(1)(p) of the Act¹⁶ permits postal officials to decide in particular cases whether or not an item is a "letter".

The absence of a definition of "letter" is a major irritant between Post Office senior management, who are responsible for the integrity of the mail, and Customs officers, who are responsible for protecting Customs duties and accordingly want broad access to international mail. The Commission has noted correspondence in which the Security and Investigation Services of the Post Office expressed concern that Customs officers were opening letters without the permission of the addressee.

Customs officials instructed their officers in October, 1978, that they could open first class mail and subsequently advise the addressee by attaching a complaints' form to the item. The Post Office objected strenuously. The Commission was also informed that these instructions to Customs officers were consistent with internal guidelines distributed to members

with the laws relating to customs and the importation of goods and, subject to such laws, shall deliver such mail to the addressee thereof, on payment of any postage due thereon, or shall return it to the Corporation.

(4) Any non-mailable matter found by a customs officer in any mail made available to him under this section shall be dealt with in accordance with the regulations.

16. Section 17(1)(a) of Bill C-42.

of the Royal Canadian Mounted Police (who are also Customs officers). The Post Office senior management refused to accept this procedure and instructed its employees not to comply with it.

The Deputy Postmaster General wrote to the Deputy Minister of National Revenue (Customs and Excise) suggesting that where a doubt existed, it should be resolved in favour of treating the item as a "letter".

The Deputy Postmaster General further suggested:

I would also request that any item of first class mail that is opened bear some marking which indicates that it has been opened and examined by Customs officials.

While I am aware that this will not fully satisfy your operating needs or your concerns regarding the applicability of the constraints imposed by legislation on narcotic and similar investigations, it is the most reasonable approach in the absence of clear legislative authority to enable your officials to open all mail.

The absence of agreement gave rise, in 1979, to Customs Directive D-44/79 entitled "Customs Procedure for Examination of Goods Arriving by Mail". It reads in part:

For the purposes of this instruction, letter is interpreted to mean any item which could reasonably be assumed to consist of correspondence as its principal content and which is in an envelope. Accordingly:

- (1) Customs Officers may for purposes of examination, open without the addressee's permission, anything which is in a packet or a parcel, and which the average person would consider to be goods or things, and any other item which is not a letter as defined in this instruction.

In the past, the Post Office relied on a common sense definition of 'letter' to mean first class mail. Since an object of up to 30kg can now be sent first class, this definition has become impractical. On the other hand, items which appear to contain only, or mainly, written material and which are in an envelope should, from a common sense point of view, be immune from arbitrary inspection by Customs officers.

Like other provisions of the Act conferring powers to open mail, section 46 specifically uses the word 'mail'. By definition, therefore, it is not applicable to "non-mailable matter". Subsection 46(4) makes it clear that "non-mailable matter is not subject to being opened by Customs officers but is to be transmitted to the Postmaster General to be dealt with in accordance with the Prohibited Mail Regulations".

Provisions which prohibit the opening of mail

Three sections (58, 59 and 43) of the Post Office Act contain direct or indirect prohibitions against opening mail. Section 58 of the Post Office Act (Section 40 of Bill C-42) provides that:

Post Office Act

Every person is guilty of an indictable offence who unlawfully opens or wilfully keeps, secretes, delays or detains, or procures, or suffers to be unlawfully opened, kept, secreted, or detained, any mail bag, post letters, or other article of mail, or any receptacle authorized by the Postmaster General for the deposit of mail, whether the same came into the possession of the offender by finding or otherwise.

Bill C-42

Every person commits an offence who, without lawful excuse, knowingly opens, keeps, secretes, delays or detains, or permits to be opened, kept, secreted, delayed or detained, any mail bag or mail or any receptacle or device authorized by the Corporation for the deposit of mail.

Section 58 is the only provision in the Post Office Act which expressly prohibits the opening of mail. The different wording used in Bill C-42 is important. The use of the phrase "... without lawful excuse knowingly . . ." makes the prosecution of the offence more difficult and derogates from the principle of the sanctity of the mail.

The opening of mail in accordance with the explicit legal authorizations discussed earlier in this chapter clearly does not constitute a violation of section 58. It has been noted, however, that some legal provisions which do not expressly authorize the opening of mail, may provide implicit lawful justification for doing so. Whether such provisions outweigh the liability created by section 58 of the Act, however, is unclear.

The exact scope of what would constitute unlawfully opening mail for the purposes of section 58 of the Act, can only be properly appreciated in light of the enigmatic and troublesome section 43 of the Post Office Act which provides that:

Notwithstanding anything in any other Act or law, nothing is liable to demand, seizure or detention while in the course of post, except as provided in this Act or the regulation.¹⁷

17. No similar provision exists in Bill C-42.

The relationship of this provision to the prohibition on the opening of mail in section 58 is determined by whether the opening of mail, in itself, constitutes "demand, seizure or detention". There has been no clear determination of this issue to date.

Any opening of mail which involves "the demand, seizure or detention" of anything while it is "in the course of post" is unlawful for the purposes of section 58 of the Act, unless it is specifically permitted by some other provision of the Post Office Act or the regulations. The opening words of section 43 ("Notwithstanding anything in any other Act or law") may negate any argument that seeks to justify the opening of mail under provisions of law other than those of the Post Office Act or regulations thereunder, insofar as such mail opening could be said to constitute "demand, seizure or detention" of anything while it is "in the course of post". Opening mail cannot be justified, for instance, by search warrants or powers of search without warrant under the Criminal Code, or powers of search and inspection under the Customs Act, or in terms of the defence of necessity, if it constitutes the "demand, seizure or detention" of anything while it is "in the course of post".

Section 43 of the Act is not the only limitation on "lawfulness" that must be considered in looking at section 58. Subsection 387(1) of the Criminal Code provides that:

Every one commits mischief who wilfully

- (a) destroys or damages property,
- (b) renders property dangerous, useless, inoperative or ineffective,
- (c) obstructs, interrupts or interferes with the lawful use, enjoyment or operation of property, or
- (d) obstructs, interrupts or interferes with any person in the lawful use, enjoyment or operation of property.

Whether or not the opening of mail in any given case is "unlawful" as a result of subsection 387(1) of the Criminal Code, depends on who has the property rights and who is doing the opening. Presumably, even the common law of trespass and detinue as it relates to chattels (including mail) could also determine the "lawfulness" of opening mail for the purposes of section 58 of the Post Office Act. Clearly it is extremely difficult to determine with confidence the legal limits of the prohibition against mail opening.

Mail covers and controlled deliveries

If the practice of law enforcement authorities in seeking the cooperation of postal employees for mail cover operations or controlled deliveries offends

no other section of the Post Office Act it may offend section 59 (section 41 of Bill C-42) which provides that:

Post Office Act — Section 59

Every person is guilty of an indictable offence who abandons, obstructs or wilfully delays the passing or progress of any mail or mail conveyance.

Bill C-42 — Section 41

Every person commits an offence who, without lawful excuse, knowingly abandons, misdirects, obstructs, delays or detains the progress of any mail or mail conveyance.

To the extent that reading mail covers and controlling deliveries obstruct or wilfully delay the mail, these actions are prohibited by section 59. It must be noted, however, that the section, like the others discussed above, refers specifically to "mail".

The absence of the adverb "unlawfully" in section 59 removes the justifications derived from other sections and other statutes that may be applied to section 58. Indeed, even if the opening of mail is found to be "lawful" in terms of section 43 and 58, it may still be an offence under section 59 if it obstructs or wilfully delays the passing or progress of the mail in question.

In summary, between them, sections 58 and 59¹⁸ create the following offences which are of some relevance to the legality of interfering with the mail:

Section 58: unlawfully opening mail;

 wilfully keeping mail;

 wilfully secreting mail;

 wilfully delaying mail;

 wilfully detaining mail;

 procuring or suffering mail

 to be unlawfully opened,

 kept, secreted or detained.

Section 59: abandoning mail;

 obstructing mail;

And, by implication: reading covers if a delay is involved; participating in a controlled delivery, if delaying or detaining mail is involved.

18. Sections 40 and 41 of Bill C-42.

Of these possible offences,¹⁹ only the first has been considered in detail in this chapter. It is not intended to subject each of the others to a similarly detailed analysis. Certain general comments, however, must be made about the scope of these offences.

It is not difficult to see how the activities associated with opening, inspecting and seizing the contents of mail could easily amount to the commission of most, if not all, of the offences established by section 58 and 59. Likewise, reading covers or participating in a controlled delivery could be an offence against section 59 of the Act. Recent *dicta* by a unanimous Supreme Court of Canada make it reasonably clear that the term "wilfully", when used in an offence-creating provision such as sections 58 and 59, normally requires little more than proving full *actus reus* with respect to the offence.²⁰

Secondly, whatever appearances to the contrary sections 58 and 59 may present, normal rules of statutory interpretation do not permit them to make illegal an action specifically authorized by some other section of the Post Office Act. Thus, for instance, whether or not opening mail wilfully delays it if the opening is authorized elsewhere in the Act (or in the regulations) it will not constitute an offence under section 58 or 59.

Thirdly, it has sometimes been suggested that provided that opening of mail or reading of covers is accomplished without removing it from the Post Office premises where it is normally handled, such action would probably not be regarded as delaying, detaining, obstructing, keeping, etc., as those terms are used in sections 58 and 59. While there are no reported judicial decisions to confirm or deny this interpretation there are some strong reasons for arguing that it is probably not correct. More plausible would be an interpretation which takes into account the normal process of mail handling and the objectives of the Post Office. While these objectives are not specifically elaborated in the Post Office Act,²¹ it may be inferred from the general provisions of the Act that they relate to the efficient and effective collection, conveyance and delivery of mail.²² In this context, actions undertaken by Post Office personnel as part of the normal process of mail handling, and which are not in conflict with the objectives of collecting,

19. In the light of the Supreme Court of Canada's decision in *R. v. Sault Ste. Marie* (1978), 3 C.R. (3d) 30, it is arguable that sections 58 and 59 should not be construed as constituting a number of distinguishable offences, but as listing several means of committing the same offence. The implications of the Supreme Court's ruling in this regard, however, remain somewhat unclear.

20. See *R. v. Sault Ste. Marie* (1978), 3 C.R. (3d) 30.

21. It is noteworthy that section 5 of Bill C-42, proposing a new Canada Post Corporation Act, does enumerate the "objects" of the proposed new Corporation.

22. Cf. subsection 8(1) of the Post Office Act.

conveying and delivering mail efficiently, will not be construed as delay, detention, obstruction, etc., under sections 58 and 59. On the other hand, interference which is not part of the normal process of mail handling, and which is undertaken for purposes other than those primary objectives of the Post Office (e.g., for the enforcement of criminal laws or the gathering of national security intelligence information), would normally be regarded as delay, detention, obstruction, etc., within the meaning of sections 58 and 59. This would be so whether the actions took place on Post Office premises or not, and whether done by Post Office officials or others.

The protection of telephone communications by law is viewed by many as extending to information about the origin and destination of calls. In fact, if the confidentiality of this information were not maintained the protection afforded to privacy of communications would have much less value. By analogy, the sanctity of the mail requires that addresses appearing on mail covers remain private.

Interception of mail, of course, may always be made with the prior consent of the addressee. Certain Canadian and foreign dignitaries have requested an examination of their mail with a view to intercepting mail containing explosives or dangerous substances. These interceptions with prior consent are in no way unlawful.

Conclusions

Current law governing the legality of mail opening is contained in an array of statutory and common law provisions whose meaning and application is often unclear and uncertain. Not only is the terminology used often vague in its implications for the legality of mail opening, but some of the essential terms have not been defined at all or are subject to interpretation by regulation or by official discretion in particular cases. Furthermore, even when defined in the Post Office Act itself, some of the terms are used in ways which are inconsistent with the definitions. For instance, despite the fact that 'mail' is defined in subsection 2(1) of the Act as meaning "mailable matter", other provisions of the Act and of the regulations refer to the possibility of "non-mailable matter" being found in the "mail", thus implying that the term "mail", when used in the Act or the regulations does not always mean only "mailable matter". Since so much of the statutory law governing the legality of mail opening revolves around whether or not items are deliverable mail, undeliverable mail or non-mailable matter, this kind of inconsistency adds to the confusion surrounding the limits of legal powers to open mail.

The confusion evident in those provisions which expressly or implicitly authorize the opening of mail is compounded by the fact that only one of the three provisions in the Post Office Act which may be interpreted as prohibiting the opening of mail in certain circumstances expressly refers to the opening of mail. Even this provision qualifies the term "opens" with the term "unlawfully", the precise application of which is difficult to establish in any given case.

The lack of clarity in the statutory provisions governing the opening of mail creates serious problems. For the judiciary, it results in the necessity of balancing social values. On the one hand, the Court must safeguard those basic rights referred to in the Canadian Bill of Rights and those which have accrued in common law. On the other hand, the Court has to be sensitive to the rights of society in general and maintain a proper balance between these two competing interests. The interpretation of statutes in Canada has been embarked upon with a great deal of prudence by judges and with the underlying principle that a judge does not make laws but merely gives meaning and interpretation to laws.

For postal authorities and others who may have a legitimate interest in opening mail under certain circumstances, and who are not normally trained in sophisticated legal analysis, this lack of clarity results in a legal régime with which it is virtually impossible to comply with any real confidence. Clearly, from either of these perspectives (and from that of the ordinary citizen who may legitimately desire to know under what circumstances his mail may be opened, and by whom) a substantial measure of clarification and simplification of the law is called for.

Peace Officer Status — Recommendations

Given the division of powers between the federal and provincial governments in the field of criminal justice, the views of the provincial governments must be carefully considered in deciding whether or not to grant such peace officer status to postal inspectors. The provincial attorneys-general are the chief law officers in the provinces. Special weight must be given to the difficulties which can arise from federal employees exercising the powers of peace officers outside the control and review of the attorneys-general.

Provincial attorneys-general who expressed their views to the Commission acknowledged that the federal government has an obligation to Canadian taxpayers to protect its property and assets. In doing so, however, it ought to restrict the granting of peace officer status (or the powers usually reserved for peace officers) to those situations where the security requirement clearly outweighs all other jurisdictional and practical considerations. It must always consider whether the task can be accomplished without granting special powers. A corollary of this principle is that persons seeking special powers should first exhaust all other avenues in performing the assigned task. Only where the general powers given to those "authorized" to protect property are clearly insufficient should the granting of peace officer status be considered. As stated by the Royal Commission of Inquiry into Civil Rights in Ontario, (Report No.1, Vol.2, page 727):

- (1) Is the power necessary?
- (2) Will the exercise of the power impose a punishment out of all proportion to the penalty that might be imposed by a judicial officer if the person is found guilty of the alleged offence?

The granting of peace officer status creates a requirement for ensuring that those to whom it is granted have the necessary training, competence, common law or the legislated rights of Canadian citizens.

The accountability of persons designated as peace officers must be clearly structured to avoid potential conflict when the prosecutorial process is invoked. Managerial or other considerations not based on the principles of criminal justice must not be permitted to interfere with the discharge of the duties of peace officers. By the same token, those charged with enforcing

the laws of this country, whether it be the provisions of the Criminal Code or of other federal statutes, must have adequate protection for errors made in good faith and without improper motive.

Whatever security programs are devised for the Post Office, some volume of wilful and criminal loss will occur. The losses from criminal activities directed against Post Office property will continue to be high unless steps are taken to prevent their occurrence and adequate enforcement measures are taken to control such activities.

In its analysis, the Commission noted the views expressed by attorneys-general and has given them careful consideration in formulating its recommendations. Having acknowledged its sensitivity to the duality of the federal and provincial presence in the field of criminal law, the Commission does not feel bound to frame its proposals solely by that criterion. The principle of the division of powers is but one of a myriad of considerations, albeit an important one.

The attorneys-general who made submissions, while objecting to the proliferation of police forces, recognized the need for the federal government to take proper and adequate steps to protect its assets. The safeguarding of federal assets is clearly in the best interest of all provincial attorneys-general. Whenever, as a result of its vulnerability, Canadian government property or assets are stolen, a crime is committed. It is not within the Commission's mandate to make recommendations for coordinating the protection of all federal assets. Nonetheless, it must be emphasized that remedial measures are needed and that these measures will require the general support of provincial attorneys-general.

The Ministry of the Attorney-General of British Columbia, through its Deputy Attorney General, stated to the Commission:

There is a legitimate interest in supervisory employees having sufficient authority to maintain the security of the business (i.e. the Post Office). There is, as well, a legitimate operational interest in collecting information of a non-criminal nature.... These examples are all legitimate in-house security functions.

Ideally, the federal government should coordinate the protection of all its property and revenue. As expressed elsewhere in this report, the present system of departmental protection is inadequate in many ways. Many departments of government have set up their own mechanisms and are developing their own approaches to security without central coordination. Other departments simply have made no provision for adequate security. Preventive measures are often non-existent and security activities merely reactive. As crime becomes more complex and sophisticated, the existing

uncoordinated approach to security leaves the government vulnerable. The long-term consequences are fraught with danger.

In the past, the federal government has granted peace officer powers rather indiscriminately. As noted elsewhere in this report, 162 federal statutes including the Criminal Code bestow on officials powers usually reserved for peace officers. Clearly, the provincial attorneys-general have cause for concern. The provinces, however, are not without fault. They, too, appear to have conferred peace officer powers without full consideration of the impact upon civil rights of citizens. A case in point is the Ontario Public Works Protection Act which gives a security guard the power of search and arrest without warrant at all public works sites. No level of government should grant such powers before a full and complete assessment indicates that there is no available alternative. Although this Commission must refrain from making such a recommendation which is clearly beyond its mandate, it must emphasize that a full review of legislation granting peace officer powers is needed.

The questions to be decided by the Commission are, therefore, clear. Are the powers now available to employees of the Post Office's Security and Investigation Services Branch fully utilized by them? If they are, are these powers sufficient? If the powers are insufficient, what additional powers must be granted? Must postal inspectors have full peace officer powers or will lesser powers suffice? If some peace officer powers are to be granted, which are they to be? To what extent can these be delineated and circumscribed?

The most telling argument in favour of granting peace officer status to postal inspectors is without doubt the allegation that suspects often go unchallenged because of the limited powers of arrest available to postal inspectors.

The provisions of section 48 of the Post Office Act, as it now stands, are neither satisfactory nor appropriate to the needs of the Post Office. The appointment of investigators pursuant to that section is both complex and uncertain and needs to be clarified. While it gives every inspector the sweeping powers of a commissioner under the Inquiries Act, the Post Office has instructed its inspectors that they must not invoke these powers without specific authorization. Indeed, to the Commission's knowledge, the use of these extensive powers has been permitted only rarely. The powers of a commissioner are too extensive to be given to postal inspectors. They are far in excess of what is needed for the task.

The Commission is also concerned that those charged with protecting Post Office property and revenue be given a clear mandate to do so and that

they be protected as "persons administering and enforcing the law". The absence of such protection undermines the authority of inspectors and interferes with the proper discharge of their duty.

The first step in correcting this is to confer upon postal inspectors a specific mandate to protect the security of postal employees, Post Office property and revenue and the mail. In this way, postal inspectors would clearly become "persons authorized" under section 449(2) of the Criminal Code and would also gain the protection of section 25 et seq. of the Criminal Code with respect to "persons administering and enforcing the law".

While the postal unions were not in favour of extending full peace officer status to postal inspectors, their attitude was somewhat different when the powers discussed were limited in the manner set out above. The following exchange is of interest:

THE COMMISSIONER: Let's look at the "something else" for a second, Mr. Parrot. If instead of having Section 48 as it stands — and, again, anyone can just join in — if I were to recommend that Section 48 be removed and be replaced by the general duty of those persons, including all postal employees for that matter, with the primary duty being to protect the mail, the safety and security of employees and the mail, is that the type of thing that you are looking forward to?

In other words, instead of Section 48, suppose I were to recommend — I am not saying I will, but just supposing I were to do so — that it is the obligation of postal inspectors, or whatever name we may designate them by, to protect the mail and ensure its safety, including the security of employees and postal property, how would you react to that?

MR. PARROT: That looks, on the fact of it, in line with what we are saying. That is what we say they should have been up to now — people there for the security of the mail, for the security of the building, for us, and the property. That is what we felt should have been their role in the past.¹

The Commission therefore recommends that:

- POS 1 The appointment of postal inspectors continue to be provided for in the Post Office Act (and in Bill C-42).**
- POS 2 Postal inspectors be specifically authorized and directed by law to preserve and protect the security of all employees, the revenue and property of the Post Office and the mail.**
- POS 3 The powers of a commissioner under the Inquiries Act now granted to postal inspectors under section 48(3) of the Post Office Act be revoked.**

1. Transcript of evidence p.2554-2555.

As seen in an earlier chapter, the powers of arrest of postal inspectors as persons "authorized" to protect property and revenue are somewhat broader than those of ordinary citizens. If legislation and directives in this regard are insufficient, that deficiency ought to be corrected immediately. Powers of arrest may be related to past, present or future offences in the sense that a person may be arrested for an offence which he has committed, for an offence which he is "found committing", or for an offence which he is about to commit. A peace officer's power to arrest for 'past offences' is much more extensive than a postal inspector's. A peace officer may arrest without warrant anyone who has committed an indictable offence or anyone whom, on reasonable and probable grounds, he believes has committed an indictable offence or anyone for whom, on reasonable and probable grounds, he believes a warrant of arrest is in force. The power of arrest of a postal inspector for 'past offences' is limited to those persons who upon reasonable and probable grounds he believes have committed a criminal offence and are escaping fresh pursuit by lawful authority. There is no difference between the powers of arrest of peace officers and of postal inspectors for 'present offences'. The Criminal Code gives to both peace officers and "authorized" persons the same powers of arrest with respect to persons "found committing" an offence.

Peace officers have the power to arrest those about to commit an indictable offence. No one has strenuously argued that postal inspectors need to be able to arrest for such 'future offences'.

It is, then, in the area of 'past offences' that the argument for extending peace officer powers to postal inspectors has its most substantial merit. The most acute problem is in the area of criminal behaviour which has been observed through video equipment. As stated elsewhere in the report, the requirement of the Criminal Code for direct observation in order to arrest a person "found committing" an offence poses problems when electronic surveillance equipment is being used. In effect, the use of such devices moves an action from being a 'present offence' to being a 'past offence' for the purposes of arrest. It is here, postal inspectors argue, that they most need the powers of arrest that are granted to peace officers.

While the weight of this argument is not as overwhelming as the proponents of peace officer status believe it to be, it is sufficient to make the case for some additional power for postal inspectors not only attractive but compelling. That does not necessarily mean that postal inspectors require the full powers of peace officer status or even full power of arrest and search. The Commission has concluded that it is sufficient to extend to postal inspectors specific powers to detain upon reasonable and probable grounds

anyone who has committed a breach against the Post Office Act or other federal statutes except the Criminal Code. The Commission has noted the provisions of section 30 of the Criminal Code with respect to a breach of the peace and the power to interfere to prevent its continuation or renewal. These powers extend to postal inspectors. The Commission is of the view that inspectors could be further authorized to detain for 'past offences' in the Post Office Act. A person so detained could either be turned over to a peace officer or released after his identity has been established and the inspector has been assured that the offence will not be renewed or continued.

The Commission therefore recommends that:

POS 4 The Post Office Act (and Bill C-42) be amended to incorporate the right of postal inspectors to detain anyone who has committed an offence against the Post Office Act or other federal statutes, except the Criminal Code, where Post Office property, mail and revenue are affected.

The Manual of Information for Postal Inspectors, has at least one section which gives rise to concern. Section 125.5 reads as follows:

Citizen's Arrest (s.434 C.C. [now s.449]) can only be effected by a Postal Investigator who actually observes a person committing an indictable offence and, where feasible, consists of touching the person on the shoulder, or arm, identifying himself and stating clearly 'you are under arrest' or 'I arrest you in the name of the Queen' and gives reason for arrest (s.25 C.C.). This action is to be taken in such a manner as to avoid drawing undue attention and then delivering the prisoner as soon as possible to a Police Officer. The use of force or restraint is not advocated but if a person attempts to leave, it should be pointed out to him that in addition to the charges of which he has been made aware, he may also have to face a charge of avoiding or escaping lawful arrest.

This is inconsistent with the powers of postal inspectors. Citizens' arrests are hardly comparable to the powers granted an employee "authorized" to protect assets and revenue. A person "authorized" enjoys wider powers of arrest and the protection of the law. The Commission therefore recommends that:

POS 5 Section 125.5 of the *Manual of Information for Postal Inspectors* be redrafted to instruct postal inspectors on the powers of arrest vested in them as persons duly "authorized" under section 449 of the Criminal Code to protect the mail and the property and revenue of the Post Office.

Search of belongings and effects

The written directives to postal inspectors concerning the search of personal property including parcels, lockers, bags and other objects, brought on to Post Office property are inadequate. The right to search the personal property of employees is often defined by prior agreement or understanding. Similarly, the right to search the property of customers can be made a condition of entry to premises if proper notice is given. In order to protect employees, revenue, mail and assets of the Post Office, postal inspectors require the power to inspect personal belongings where there is reasonable suspicion of a criminal offence. This applies both to members of the public and employees who bring parcels, bags or other objects into Post Office premises. Likewise, inspectors should have the right to search the lockers of employees when there are reasonable and probable grounds to believe that a criminal offence has or will take place.

In a set of Plant Rules and Regulations from the Toronto area the Commission noted the following provisions which imply a limited right of security officers to search persons other than postal employees.

1. The right to challenge Post Office employees and non-Post Office employees while in Post Office buildings.
2. The right to determine if parcels in anyone's possession have been properly cleared according to regulations — otherwise, to detain the parcel until properly cleared.
3. The right to challenge drivers of vehicles entering or leaving the Post Office premises, to satisfy that the vehicle is furthering Post Office business.

The Commission is of the view that similar rules should be promulgated on a national level. Similarly, the Postal Standards and Guidelines or the *Manual of Information for Postal Inspectors* should be enlarged and should specifically mention the authority to search persons other than postal employees while in Post Office buildings or premises.

Elsewhere in this report there are recommendations for cooperation between management and labour for the development of preventive security procedures. One area where such cooperation could be extremely valuable to all is in working out procedures for the exercise of these rights of search. Postal inspectors certainly need training in the acceptable implementation of searches. At the same time, the Commission does not consider these rights to be subject to negotiation between employer and employee. These powers,

legally speaking, are not negotiable. The Commission, therefore, recommends that:

POS 6 Postal inspectors be authorized by law to search personal property and belongings of anyone on Post Office property where there are reasonable and probable grounds to believe:

- (a) that the person is in illegal possession of mail or revenue or property belonging to the Post Office; and
- (b) that a person may be carrying an object dangerous to employees or members of the public.

Because members of the general public and postal employees ought to be aware of the right of inspectors to inspect personal belongings brought into Post Office buildings, appropriate notice must be conveyed to that effect. It is recommended that:

POS 7 (a) The public be advised by appropriate notices displayed near the entrance to Post Office premises of the liability to search of personal articles brought on to Post Office premises;

- (b) employees be advised that as a term and condition of employment items carried within Post Office premises may be liable to search.
- (c) employees be advised that Post Office lockers are Post Office property and are subject to search; and
- (d) employees be required to acknowledge in writing their acceptance of these terms of employment.

If in searching personal belongings of a member of the public or an employee, an inspector finds mail or articles belonging to the Post Office, or items likely to endanger employees, he must be able to seize and confiscate the item pending prosecution and disposition. The right to challenge an employee or a member of the general public with an open parcel or letter under suspicious circumstances and to confiscate the article must be conferred on postal inspectors. The Commission, therefore, recommends that:

POS 8 Postal inspectors be authorized by law to:

- (a) seize items which are the object of search;
- (b) seize a parcel to determine whether it has been cleared according to regulations; and
- (c) challenge an employee or a non-employee with a broken parcel or letter to inspect and confiscate it if necessary.

The Commission further recommends that:

POS 9 The failure to submit an item for search to a postal inspector be grounds for management to take disciplinary action against employees and to expel members of the public from Post Office premises.

As noted elsewhere, a peace officer has a common law right to conduct a search of a person incidental to arrest. The availability of the same power to other persons making arrests has never been fully determined by the courts and at present rests on legal analogy and some judicial *obiter dicta* which support the analogy. As a general rule, if a postal employee is "found committing" an offence, it would seem reasonable that he be searched to preserve evidence and to prevent that person from endangering his life or the life of others.

Similarly, if a person is found committing an offence with an offensive weapon, it would be both unwise and reckless to expose others to the danger of physical harm by not searching that person.

Outside of these specific circumstances, the Commission has not been persuaded that there is any need to amend the Post Office Act to authorize greater powers to conduct searches of persons. Management may now, under the general heading of management rights, empower inspectors to conduct personal searches. These are usually conducted on a selective or random basis. The criteria for such searches have been fully analyzed in an earlier chapter and need not be explored here. The Commission, however, deplores the fact that there has not been adequate publication of policies and procedures in this regard. Neither the collective agreements nor the New Employees Information Kit reflect this right of management. The Commission therefore recommends that:

POS 10 The right of management to conduct personal searches be communicated to new employees through the information kit supplied to them and be publicized to other employees by memorandum.

Paragraph 121.1 of the *Manual of Information for Postal Inspectors* at present states:

Searches submitted to voluntarily and witnessed, may be conducted by Postal Investigators but extreme caution is to be exercised when females are involved (services of Police Matron should be enlisted) or juveniles are involved (parents or guardian should be present — see Manual Chapter dealing with Juveniles). Refusal to submit to voluntary search must be respected and require the services of Police Officer.

The Commission recommends that:

POS 11 Paragraph 121.1 of the *Manual of Information for Postal Inspectors* be redrafted to indicate more clearly to inspectors the circumstances and limitations under which they may conduct searches with or without consent.

The Commission heard considerable discussion of whether postal inspectors should be able to obtain search warrants under the provisions of

section 443 of the Criminal Code. There was also much discussion of whether postal inspectors should be present when peace officers execute search warrants that have been issued to them.

The Commission does not accept the view that postal inspectors cannot apply for a warrant of search under section 443 of the Criminal Code. The provisions of section 443 are quite specific. Subsection (1)(c) states that a justice may authorize "a person named therein . . . to search the building". It would be difficult for this Commission, in the execution of its mandate, to express a contrary view on so general a provision. Postal inspectors are legally entitled to apply for and be issued with search warrants.

The *Manual of Information for Postal Inspectors*, paragraph 121.3, provides that:

Postal Investigators have no authority to obtain or to act on a Search Warrant without the presence of the police and when the need for searching becomes necessary, the Police should be consulted.

This paragraph is simply inaccurate in suggesting that postal inspectors have no authority to obtain a search warrant. The Commission therefore recommends that:

POS 12 Paragraph 121.3 of the *Manual of Information for Postal Inspectors* be amended to reflect accurately the provisions of section 443 of the Criminal Code to the effect that a search warrant may be issued to a person who is not a peace officer.

The Commission does not wish to make a recommendation on the actual obtaining of search warrants. It can be argued with some merit that inspectors should be permitted by the Post Office to do so. They are sometimes the only persons with the necessary knowledge to swear out an affidavit in support of an application for a search warrant. Accordingly, it could be a service to the public police forces and a saving of time if inspectors were allowed to apply for warrants. This practice could be responsive and sensitive to local dictates and to the preferences of the public police forces in a jurisdiction.

For his own protection it would certainly be unwise for someone to execute a search warrant without the assistance of a peace officer. On the other hand, it would be counter-productive to specifically prohibit, as suggested by the unions, postal inspectors from being present when a search is being conducted. They have special expertise and knowledge of the mail which can be of assistance to a peace officer executing a warrant.

The subject of consent searches has been covered in an earlier chapter. The law is clear: anyone may consent to have his premises searched. It would be preferable, however, if postal inspectors making such searches were required to obtain consent in writing. The Commission therefore recommends that:

POS 13 A consent by a postal employee to the search of his premises by a postal inspector should be given in writing.

The problem of investigation is one which has caused the Commission much concern. There are three alternatives. First, postal inspectors could merely gather information to be passed on to the public police forces but not pursue investigations themselves. Secondly, they could be authorized to investigate offences under the Criminal Code in addition to offences under such federal statutes as the Post Office and the Financial Administration Acts. Thirdly, they could be permitted to investigate offences under the Post Office Act and other federal statutes but not the Criminal Code.

It is obvious that the first alternative would create problems. The interest of a municipal or provincial police force in investigating and pursuing a possible offence under the Post Office Act or the Financial Administration Act may be minimal. Given the resources available to them and the tasks assigned, it would be unreasonable to assume that local police forces would willingly undertake such investigation with much zeal.

Other quite different considerations affect the investigation of offences under the Criminal Code. The jurisdiction over these offences is clearly placed with the provincial attorneys-general and ought not to be encroached upon. The Commission's recommendation that these investigations be handled by the public police is presented in Chapter 8.

It follows, therefore, that the third alternative is the only practical course. Postal inspectors must continue to investigate offences under the Post Office Act, the Financial Administration Act and similar federal statutes. Further, it is reasonable that they should complete the investigation before seeking advice on possible prosecutions. Such offences never result in an arrest but are proceeded with by summons. The powers required for these investigations neither conflict with the views of provincial attorneys-general nor impact adversely on the civil rights of employees.

Investigators may ask questions but every person has the right not to reply. Whether the investigator is a peace officer or a postal inspector, that rule does not change. A number of allegations were made to the Commission about incidents in which rights were abused during the interrogation and questioning of suspects. There is no room for abusive or coercive methods in

the questioning of suspects. As persons in authority, postal inspectors should know that statements obtained by such methods are normally excluded from evidence by the courts.

The right to counsel is fundamentally associated with the right to remain silent. To refuse access to counsel is morally and legally wrong. The accusations of abuse are not numerous. If abuse occurs at all, however, it indicates a serious misunderstanding of the basic human and civil rights of employees.

The remedy for this type of problem is to be found in the training provided for inspectors. For the purposes of the present chapter, the Commission affirms that inspectors should receive training that instructs them in the law surrounding the admissibility of confessions, the right to counsel, the right to remain silent and the right of a person to be treated with dignity even when suspected of the most heinous crime. Postal inspectors equally need to be trained to protect themselves from unfair allegations by questioning a suspect only in the presence of witnesses. They should ensure that statements are properly recorded to avoid misinterpretation. Similarly, no one under suspicion or against whom inspectors hold incriminating evidence ought to be questioned without an adequate and full warning that they have the right to remain silent.

The issue of the 24-hour notice enshrined in the collective agreements is discussed elsewhere. It is worth noting, however, that failure to give such notice would not affect the receiving in evidence of a statement obtained in contravention of this provision. The issue is treated here as being of secondary importance since the Commission expresses elsewhere in the report its view that postal inspectors, except as witnesses, should never be involved in disciplinary proceedings against postal employees. Since the 24-hour rule is a disciplinary matter, it should not affect the work of postal inspectors.

In conclusion, and with specific reference to the order in the Commission's mandate to investigate and report upon the proposal to confer on postal inspectors the status of peace officer within the meaning of the Criminal Code, the Commission does not agree with the proposal. In the light of recommendations made in this chapter concerning the powers of arrest, detention, search and seizure, there is no requirement for peace officer status.

Mail opening — Recommendations

The sanctity of the mail in a free society is often taken for granted. This has been reflected in the fact that, until recently, when the need to protect the privacy of communications was discussed the examination invariably focussed on verbal as opposed to written communications. No one expressed concern about the sanctity of the mail. Only recently have political events, and particularly debate on national security issues, brought attention to the need to protect the privacy of written communications — to uphold the sanctity of the mail.

A good example of this easy acceptance is to be found in the background to the passing of the Protection of Privacy Act by Parliament. In 1969, the Report of the Canadian Committee on Corrections (known as the Ouimet Committee) expressed concern for the protection of communications. The Committee accepted that a certain degree of interference was warranted for law enforcement purposes, but only under strict control. The Report recommended that interference with private communications be placed under judicial control and ministerial accountability. After several years the Criminal Code was amended to reflect in part the recommendations of the Ouimet Committee. Part IV.I of the Code, entitled "Invasion of Privacy" was enacted. The "invasion" dealt with, however, was confined to the interception of oral communications. It does not refer to any written form of communication.

Because the Post Office Act (and this is perpetuated in Bill C-42, an Act to establish the Canada Post Corporation) prohibited the interception of mail in any form, it was assumed that the mail was free from interference by law enforcement agencies and public police forces. Recent revelations in the United States and in Canada have changed that assumption. The public is aware of mail interception practices adopted by some law enforcement personnel. Public opinion has been aroused by the failure of those concerned to honour the principle of the sanctity of the mail.

The final report of the United States Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities, presided

over by Senator Church, examined letter opening conducted between 1940 and 1973. The committee found that throughout the period the Federal Bureau of Investigation and the Central Intelligence Agency opened letters in violation of the law. The report demonstrates the excesses which may occur when no restraint is imposed by law and no provision is made for judicial and ministerial control. These agencies covertly opened and photographed letters being carried by first class mail. In one program alone during that 33-year period, more than 215,000 communications were intercepted, photographed, indexed, filed and the information disseminated to various agencies. This practice has now been brought under strict judicial control in the United States.

When it originated the domestic mail opening program of the C.I.A. and the F.B.I. had legitimate wartime targets. The Select Committee reported that, when it was halted in 1973, the targets included Senators, Congressmen, journalists, some dissidents (some selected on the basis of personal taste) and even a Presidential candidate. It was noted by the Select Committee that only one of the letters opened in the whole 33 years of the operation led to a criminal charge.

Mail opening activities have taken place in Canada — although apparently not to the same extent. The experience of others, however, should be fair warning of what can happen. If the sanctity of the mail is to be recognized, it ought to be legislated. If there are to be exceptions they ought to be conferred by legislation and the power exercised under the strictest control and with full accountability.

The Commission accepts that there may be issues of national security that require the interception of mail. Similarly, if there are reasonable and probable grounds to believe that the mail is being used to commit a criminal offence, or that it contains some device or substance which poses an immediate threat to life, then it should be liable to opening and disposal. What must be decided is who should be authorized to open mail, for what purposes, under whose control and who shall be held accountable.

The Post Office Act permits the opening of some mail by postal employees and Customs officers under certain circumstances. It does not permit the opening or interference with any class of mail by anyone else except the addressee.

The concept of the sanctity of the mail is a value of our society that needs to be protected. To permit it to be abused by anyone is to undermine our basic freedom. What can begin as a legitimate exercise, for generally accepted reasons, may soon become routine and subject to abuse.

Postal employees should be reminded continually of the sanctity of the mail. Neither the present Post Office Act nor Bill C-42 states this principle. There should be a general provision reflecting the obligation of all postal employees to preserve and protect the sanctity of all mail in the custody of the Post Office. The Commission recommends that:

MOP 1 The Post Office Act (or Bill C-42) be amended by inserting a section on the sanctity of the mail; and that employees be charged with the obligation to preserve and protect the security of all mail in their custody from unauthorized opening, inspection or reading of contents or covers, tampering, delay or other unauthorized acts.

There is a general prohibition against the opening of sealed mail in the Post Office Act. One effect of this prohibition is that the police cannot legally open mail. The Commission notes with concern, however, that the prohibition against mail opening contained in Bill C-42 uses different wording. Where the Post Office Act makes it an "indictable offence" to open mail "unlawfully", Bill C-42 provides that it is "an offence" to open mail "without lawful excuse, knowingly". This change in wording may cast doubt on whether the previous prohibition against mail opening has been reduced. That doubt ought to be dispelled by changing the wording of the prohibition in Bill C-42 to make it identical with that in the present Post Office Act. The Commission recommends:

MOP 2 Section 40 of Bill C-42 be amended by deleting the words "commits an offence who, without lawful excuse, knowingly..." and substituting the words "is guilty of an indictable offence who unlawfully..."

It has been suggested that since reading mail covers (and making controlled deliveries) is not specifically prohibited in the Post Office Act, it is permissible. The Commission does not agree. There is an inherent right in our society to privacy in our communications — including privacy about with whom we correspond. Reading mail covers interferes with that privacy. It also interferes with the free flow of mail, and that is forbidden. Although it may be necessary to make some exceptions, the Commission is of the view that there should be a general prohibition against reading mail covers in order to obtain information for purposes other than the delivery of the mail. The Commission recommends that:

MOP 3 The Post Office Act (or Bill C-42) be amended to generally prohibit the reading of outside covers of any class of mail in order to obtain information for purposes other than the delivery of the mail.

Exceptions to this prohibition are justified on the grounds that although society has an interest in protecting the privacy of mail, it has an equally

strong interest in detecting crime. While the detection of crime does not necessarily overrule the basic right of privacy, willingness to permit interference with the mail under certain conditions may be considered a logical extension of society's acceptance of controlled interception of verbal communications. Verbal communications may now be intercepted under section 178.1 of the Criminal Code with judicial permission. The Commission is of the view that interception of written communications could also be permitted under judicial control. The interception of written communications requires at least the same safeguards as the interception of oral communications with respect to authorization, reporting and notification. The Commission, therefore, recommends that:

MOP 4 Except for those Post Office and Customs purposes already specified in the Post Office Act, the Act and the Criminal Code be amended so that other opening of mail and reading of mail covers be by judicial order only.

The Commission is of the view that no mail of any class ought to be liable to demand, seizure or detention while in the course of post except by due process of law. Section 43 of the Post Office Act at present provides this protection. Regrettably, Bill C-42 does not contain a similar section. If Parliament permits the interception of mail with the controls recommended above, there should be no other way for law enforcement officers to intercept mail or delay it by controlling its delivery. If Parliament does not deem it necessary to permit the interception of mail even under the controls recommended then it is all the more essential to ensure that an easier method of interception is not available. It has been agreed that controlling the delivery of mail for investigative purposes does not constitute a "demand, seizure or detention". The Commission does not agree. To make this clear in the law, the Commission recommends that:

MOP 5 The Post Office Act (or Bill C-42) be amended to include a specific prohibition on controlled deliveries unless authorized by judicial order.

MOP 6 Bill C-42 be amended by adding a provision to the effect that nothing is liable to demand, seizure or detention while in the course of post except as provided in the Act and in the Criminal Code.

MOP 7 (a) The existing provisions of the Post Office Act for the opening of mail for postal and Customs purposes be continued in the Act and in Bill C-42;

(b) the Post Office Act (or Bill C-42) be amended to require a judicial order for all other mail opening and reading of mail covers; and

(c) the Criminal Code be amended to extend the provisions of section 178.1 to encompass written communications.

The mandate of the Commission does not extend to considering what reasons of national security might justify the opening of mail and other forms of interception. Another Commission has been assigned that task. On this matter, the Commission does not have the evidence that would be required to comment on whether there are sufficient reasons of national security to justify the interception of mail. There is, however, enough evidence of the potential for abuse for the Commission to conclude that if the interception of mail for reasons of national security is permitted, it should be in accordance with the above recommendations for judicial control and ministerial accountability.

The Commission is also aware that mail is sometimes examined with the consent of addressees where there is a perceived danger that it might contain explosives or other dangerous substances (for example, a suspected letter bomb). Such interception of mail is beyond comment by the Commission. There is obviously no reason why mail should not be examined with the consent of the addressee.

The Post Office Act and Bill C-42 permit postal employees to open mail in a number of circumstances. These circumstances can be conveniently grouped under four categories.

- (1) to intercept and open undeliverable mail where there is an insufficient or incorrect address to permit delivery;
- (2) to determine whether mail other than "post letters" complies with the conditions set for mailing by Canada Post with respect to mailable matter, i.e. whether it can be transmitted and whether the rate fixed for mailing has been observed;
- (3) to intercept and prohibit the distribution of mail where there are reasonable and probable grounds to believe that mail is used for the purposes of committing an offence and to send such mail to a Board of Review for opening.
- (4) to open unmailable matter deposited in the mail. Unmailable matter in this context includes items which are illicit, prohibited, illegal or dangerous.

The Commission has concluded that it is necessary for the Postmaster General to continue to have power to open mail in each of these four categories. The interception and opening of all classes of mail which is undeliverable because of an insufficient or incorrect address is a power which must be available to any Post Office department. The Commission has no recommendation or comment to make in this regard.

Mail other than "post letters" should continue to be the subject of interception and opening to monitor compliance with the conditions set by the Post Office. The power to intercept and open mail which upon reasonable grounds it is believed is being used to commit an offence protects people who are vulnerable to improper solicitation, misrepresentation, fraud, and other illicit business practices conducted by mail. The Commission, however, is concerned with the procedures used in such interception. It must be assumed that the "reasonable grounds" upon which the Postmaster General acts will be founded on:

- (1) a complaint by the addressee;
- (2) a complaint by a member of the public who is not the addressee;
or
- (3) other sources including Post Office personnel.

The Commission is of the view that the power to open mail which is suspected of being illicit should be confined to cases where a written complaint by an addressee is sent to the Postmaster General. In addition, the power should extend to all classes of mail. The Commission therefore recommends that:

MOP 8 The Post Office Act (or Bill C-42) be amended to provide that the "reasonable grounds" upon which the Postmaster General may intercept and open mail must be a written complaint by the addressee.

Although only mailable and deliverable matter should be sent by mail, the Commission is of the view that, in general, the Post Office should not have the authority to open mail to determine whether it contains mailable matter. There are, however, a few exceptions to this rule. If it is suspected from examination of the outside of a piece of mail that it contains unmailable material, the Post Office should return the item to the sender but it should not be opened. If, on the other hand, outside examination indicates that the contents pose a danger to life, or property, the item should be detained, opened and removed from postal custody to the extent necessary to determine and eliminate the danger. However, when this occurs a sworn statement of the detention, opening, removal or treatment including the circumstances which gave e Postmaster General within 48 hours of the incident. Any person purporting to act under these provisions who fails to report his action in this way should be subject to disciplinary or criminal prosecution, or both.

Where an outside examination suggests that an item of mail contains illegal or illicit material such as weapons, explosives, or drugs, the sender or

addressee should be notified and the contents seized for the purposes of prosecution or destruction, or both.

The Commission recommends that unmailable or undeliverable items (which can be so determined by outside inspection) be dealt with as follows:

MOP 9 (a) Non-mailable items which are neither dangerous, illegal or prohibited should be returned to the sender;

(b) if an item is undeliverable and the contents are dangerous to life or property, it should be removed from the Post Office premises and, if necessary, opened and destroyed;

(c) if an item is undeliverable because its contents are illegal, illicit or prohibited by law, the sender and/or the addressee should be notified of the interception within 60 days and the item should be retained by the Post Office for use in prosecution or for destruction or both.

The Commission further recommends that:

MOP 10 (a) An employee who removes, detains or opens an item or mail of any class because it represents a danger to life or property, should, within forty-eight (48) hours of taking such steps, submit a sworn statement to the Postmaster General on the circumstances surrounding the removal and detention; and

(b) any employee who, without a lawful excuse, fails to report an interception within 48 hours should be subject to discipline or criminal prosecution, or both.

Where no postage is paid, such mail is undeliverable and should be subject to destruction if the addressee will not, upon reasonable notice, pay the postage due and collect the mail at a designated postal terminal.

The Commission therefore recommends that:

MOP 11 Mail for which no postage has been paid should be subject to destruction if the addressee does not, within 60 days, attend at a Post Office terminal to pay the postage due and collect the mail.

The sender should also be notified of the liability for destruction and be given an opportunity to redeem the item upon payment of the postage due.

The power of Customs officers to open mail is limited to:

- (1) mail "other than letters" originating in another country; and
- (2) mail which is suspected of containing undeclared goods which are subject to customs or import duties or the importation of which is prohibited (for example, drugs, weapons, or explosives).

The Commission notes that international mail in transit through Canada to a third country is not protected in either the Post Office Act or Bill C-42. Since such mail should have freedom of transit, the Commission recommends that:

MOP 12 The Post Office Act (or Bill C-42) be amended to recognize the sanctity of international transit mail and exclude it from inspection by Customs officers.

The power of Customs officers to open mail can only be exercised in the presence of the addressee or a person authorized to act as his agent, or, at the option of the addressee, with his written permission.

When an addressee cannot be found or refuses to open a letter a Customs officer is required to submit the letter to the Post Office to be dealt with as undeliverable mail and, pursuant to regulation, destroyed after 30 days. Prohibited matter found by Customs officers is sent to the Post Office and dealt with in the same manner as prohibited matter found in domestic mail.

It has been argued that the Department of National Revenue (Customs and Excise) instead of the Post Office should have jurisdiction over all international mail. It has also been suggested that Customs officers, where there are reasonable grounds to suspect contravention of revenue laws, should have the power to examine all international mail of every category without the consent of the addressee. The intent of these suggestions is to add letters to the jurisdiction of Customs officers.

The Commission did not investigate the arguments used by Customs to support the need for additional power. It is the Commission's view, however, that unless there is convincing evidence that the criminal use of letters of the type that usually convey written correspondence is so widespread that its detection warrants setting aside all individual rights to privacy, this additional power should not be granted. It is interesting to note that these new powers being sought for Customs officers are not powers which Customs officers in the United States have or seek. Although there is no good reason why Canada should slavishly follow the United States' procedures, for example, in the area of the importation of drugs into North America, the two countries do face similar problems.

It has also been argued in this regard that since Customs officers have a right to inspect and open all items entering the country by other means, they should have the right to inspect and open all mail of any class with or without the permission of the addressee. This argument ignores the fact that Customs inspection of goods at a point of entry is performed in the presence of the owner or his agent and with his consent.

Without going into all the possible difficulties attendant upon the absence of a definition of 'letter' for the purpose of Customs inspection, it appears that the request that all international mail of every category be turned over to Customs for inspection is far in excess of what is needed for the protection of revenue and the enforcement of criminal law.

This desire by Customs for extended powers has been the subject of discussion for some time. In November 1979, the then Postmaster General of Canada wrote to the Minister of National Revenue and made the following points:

This separation of letters from all other items of mail accurately reflects the historical and current perception regarding the sanctity of private correspondence. In my opinion, any violation of this right should only be undertaken for overwhelming reasons of national security and equally important, when there are clear benefits to be obtained. From the evidence that I have seen to date, including the caucus committee report, I am not convinced that these two criteria are met in this case.

The Commission subscribes to that view. The right to privacy cannot be put aside without strong justification. In any event, there are alternatives available which respect privacy and at the same time are sufficient for the protection of revenues and adequate for the enforcement of criminal law. Customs officers now may open letters with the consent of the addressee and if that consent is not given the Act permits their destruction.

If there are reasons why an addressee ought not to be notified that there are reasonable and probable grounds to suspect that an item of international mail contains prohibited or illicit matter, Customs officers, as peace officers, will be able to apply for a judicial order to intercept in accordance with the recommendations made above.

The Commission, therefore, recommends that:

MOP 13 Customs officers be allowed to open mail, other than letters, for inspection and may open letters in the presence of the addressee or a person authorized by the addressee or with the written permission of the addressee. Where an addressee cannot be found or refuses to open a letter, it should be sent to the Post Office to be dealt with as undeliverable mail.

The concern expressed to the Commission with respect to a viable definition of 'a letter' continues to present a problem. It is clear, however, that no Customs personnel should be allowed to read or divulge any correspondence contained in sealed mail.

The Post Office Act should therefore define, for the purpose of Customs inspection, what is a letter. Since this is a technical matter the Commission

does not offer a definition here but suggests that the Post Office provide a definition based on weight and size. The Commission, therefore, recommends that:

MOP 14 For purpose of Customs inspection the term 'letter' be defined and the definition be included in the Post Office Act.

Security and Investigation — Recommendations

No acceptable security program can be devised for the Post Office that will eliminate all damage and loss. To do so would require the adoption of measures that would be much too draconian to be accepted in Canadian society. It would also require too great an emphasis on security by the Post Office. Security is only one objective of the Post Office. It must be balanced against production and cost objectives. Nonetheless, there is a considerable need for improvement.

It is the conclusion of the Commission that the Post Office has not been sufficiently serious in its effort to lessen losses due to purposeful activity. Evidence before the Commission indicated that some postal employees perceive security as being secondary to other organizational goals. It is seen, not as a "war on loss" but rather as a passive and partial attempt at "containment". It is clear from the chasm that separates the stated security objectives from the actual security practices that the Post Office has never determined the priority to be given to security. The situation may be less one of conscious intent than of benign neglect. Many senior and intermediate management personnel acknowledged, in effect, that the Post Office had never seriously examined security and decided what it wanted to do.

The Commission has been guided by the need to make realistic recommendations that take into account the present structure of the Security and Investigation function in the Post Office Department; the constraints on human and financial resources under which the Department must operate; the impending conversion of the Post Office Department into a Crown Corporation; and the current uncoordinated state of federal police and security policy.

Each recommendation touches upon one of the three basic requirements of a security system described in Chapter 2: administrative and organizational structure; personnel screening; and physical security.

There is a major task to be done in coordinating both the legislative and administrative authority for security and investigative units in the Federal Government. Some of the Commission's recommendations on postal secu-

rity are made in the hope that this will soon be done. There is an opportunity for the Post Office, in undertaking the necessary reform of its own security and investigation function, to create a model unit for others to follow. The authority and responsibilities in such a model unit should be clear and its purpose should be well understood to be separate and distinct from that of the public police at all levels.

It was generally conceded during the Commission's investigations that the stated Post Office objective of making security a responsibility shared by all Post Office members has not yet been achieved in spite of the directives and instructions that have been issued as corporate policy. It was also agreed that postal operations are far too complex and vast to allow any one group of specialists such as Security and Investigation Services to accept full responsibility for providing and maintaining, "adequate security measures for the protection of personnel, mail property and values".¹

Accordingly, the Commission recommends that:

SEC 1 The security responsibilities of all personnel be defined, communicated and implemented by,

- (a) including specific security responsibilities of management personnel in official job descriptions and in annual business plans;
- (b) developing employee security education programs not only to make employees aware of the legal consequences of violations of the Post Office Act, the Criminal Code and the Financial Administration Act but also to impress upon them that security programs are developed for their own protection as well as for that of the Department;
- (c) ensuring that all Post Office personnel are fully aware of their responsibilities for assisting in problem identification, general and specific prevention programs and in the investigation of offences; and
- (d) holding both management and non-management personnel accountable for security violations, and losses, by including reports on security responsiveness in all annual performance assessments.

Since the Post Office Department adopted a decentralized management structure in the early 1970's, operational responsibility for Security and Investigation Services, as for Marketing, Finance, Personnel and Operational Services, has been in the regions. At the Post Office Headquarters in Ottawa, five assistant deputy postmasters general and various national directors advise the Deputy Postmaster General (the deputy minister) and give "func-

1. Security and Investigation Services, *Postal Corporate Policy, Postal Standards and Guidelines*, No.22-1-1, September 19, 1974.

tional guidance" to units in the field. The National Director of Security and Investigation Services is responsible to the Assistant Deputy Postmaster General for Operational Services but he has no line management responsibility for Security and Investigation units in the four postal regions. He certainly promulgates policy and gives solicited and unsolicited professional guidance ("functional guidance") but cannot, under the present organizational structure, give orders to the regional directors of Security and Investigation.

The regional directors of Security and Investigation report to their respective regional general managers and all postal inspectors in the regions report to the regional directors of Security and Investigation.

There are certain advantages to including the security and investigation function as part of regional management. From a regional general manager's point of view, it places priorities for security and investigation; allocation of resources; relationships between postal inspectors and postal facilities managers; and relationships between postal inspectors and local law enforcement authorities under his control. Whether to prosecute employees for criminal offences or whether to resort to disciplinary sanctions becomes a regional decision.

The disadvantages of regional autonomy over security and investigation activities are the danger of conflict of interest situations developing and the difficulty in maintaining a consistent national standard of security. Obviously the degree to which the security and investigation function can be decentralized effectively, depends upon the duties and responsibilities given to postal inspectors. If, as was recommended by the labour unions, postal inspectors were responsible only for preventive security at postal facilities and not for investigations, then the case for decentralization would be more persuasive. Preventive security must be the responsibility of all levels of management and postal inspectors could be assigned to various levels of management as security advisors. Provided there is a set of national security standards, preventive security can be decentralized without impairing efficiency and without jeopardizing the principle of accountability.

If the investigation function is added to the postal inspectors' responsibilities (and the Commission has concluded that an investigative capability within the Post Office structure is necessary), the argument for decentralization is less persuasive. As long as the senior postal inspector (the Regional Director of Security and Investigations) in each region is accountable to the regional general manager, the principle of independence of investigations is called into question. A regional general manager and his director of Security and Investigation under the current decentralized structure have the capabili-

ty of hiding from the Postmaster General and his deputy minister evidence of wrong-doing and of criminal acts. Since he reports directly to the regional general manager and not to National Headquarters, a regional director of Security and Investigations can keep to himself evidence of wrong-doing which reflects adversely on the productivity, diligence and integrity of the regional general manager and his staff. The Commission is not aware of such "cover-ups" happening, but the potential does exist.

After discussions with senior Canadian and United States postal officials, the Commission has concluded that the extent to which Post Office managers follow the advice and recommendations of postal inspectors would be increased if, in addition to security and investigation, inspectors were responsible for financial and, indeed, management audit. Inspectors should be trained to conduct internal audits to ensure that postal revenues are being properly protected and that the Post Office is being operated in conformity with the law and with postal regulations. They should also evaluate and make recommendations on the cost and management effectiveness in mail handling, data systems, customer service, financial operations and mail contracts.

Line managers will pay much more attention to what postal inspectors have to say if they know that the inspectors report on managerial efficiency and financial integrity in addition to the state of preventive security. If management and financial audit functions are added to the duties of postal inspectors, then an independent and centralized structure for the security and investigation function would be essential. In time, with these added duties, postal inspectors would become the agents in the field of the Deputy Postmaster General (or President of the Post Office Corporation) and the means by which the Deputy can ensure that line management performs in accordance with the national objectives of the Post Office.

It is, therefore, recommended that:

SEC 2 The Security and Investigation function be restructured as a centralized organization, called the 'Post Office Inspector General Service', headed by a 'Post Office Inspector General' who reports directly to the Deputy Postmaster General.

SEC 3 In addition to current allocation of responsibilities for security and investigation, the Inspector General Service be given responsibility for management audit, financial audit and general reporting on the efficiency of the Post Office.

SEC 4 The Inspector General Service be authorized to operate within the constraints of its own independent budget.

There are 8,257 postal facilities in Canada Post spread from Newfoundland to British Columbia; there are approximately 53,000 full-time employees; and there are 79 postal inspectors. Consistent with recommendations for improved preventive security and added audit responsibilities for postal inspectors, personnel strength of the proposed Post Office Inspector General Service should be increased considerably from the present Security and Investigation complement. The Commission has already noted that the ratio of postal inspectors per employee in the United States Postal Service is double the Canadian ratio. It is recommended that:

SEC 5 A larger and more realistic allocation of personnel resources be made to the security and investigation function, consistent with the need to advise on the security of all postal facilities throughout an immense geographical land mass; to investigate crimes against a Post Office employing over 50,000 employees; and to perform new management and financial audit tasks anywhere in Canada.

The Commission has noted that although most inspectors have more than 20 years of experience as postal workers or as law enforcement officers, the only educational requirement for postal inspectors is high school and the only training regularly provided to new inspectors is a three-week basic course. The successful completion of this course does not necessarily precede work as a postal inspector, nor is it a requisite element of the normal probation period.

No postal inspectors are currently qualified to advise departmental officials on the security of future or indeed, existing, electronic mail services. The amount of fundamental training devoted to civil rights, interrogation techniques and report writing is totally inadequate. While the Commission is aware of one female employed as an acting postal inspector, there are currently no permanent female inspectors. The recruitment of female postal inspectors would not only make security and investigation personnel more representative of the general work force in the Post Office, but would also enable interviews of female employees to be conducted by female inspectors. It was reported to the Commission that some female postal employees feel intimidated when interviewed by male postal inspectors.

The Commission was impressed by the recruitment and training standards of the United States Postal Inspection Service, which strives to produce a career service of well-educated, professionally trained male and female inspectors capable of dealing with modern crime trends. Recruits to the United States Postal Inspection Service must hold at least one university degree, with preference given to law, law enforcement, accounting, business

administration, or computer science. Trainees undergo a compulsory 16-week course prior to beginning their duties. Refresher and specialized courses are offered on a regular basis.

If Canadian postal inspectors are to be capable of dealing with the threat to postal security from sophisticated organized crime, computer crime, and financial and management audit functions they must be professionally qualified. If they are to do so with the sensitivity that is required by modern labour-management standards and to recruit the assistance of postal employees in general, they must be trained to high professional standards.

The Commission recommends that:

SEC 6 Recruits to the Inspector General Service possess, as basic qualifications:

- (a) a university degree, or equivalent academic training, in fields such as accounting, computer science, law, business administration, or commerce;
- (b) preferably at least 5 years working experience in the Post Office, a law enforcement agency, or other relevant field; and
- (c) bilingual capability or willingness to undertake language training if required.

SEC 7 An annual competition be held nationally by the Post Office to establish an eligibility list for appointment to the Post Office Inspector General Service. The committee overseeing this annual competition should strive to ensure that:

- (a) an adequate proportion of women is included on this eligibility list; and
- (b) when a vacancy occurs in a regional or Headquarters unit, it is staffed from the eligibility list.

SEC 8 Recruits to the Inspector General Service be sent immediately on an extensive basic training course, offered in both official languages, the successful completion of which would be a condition of employment. The basic course should offer instruction in:

- (a) laws and regulations governing the Post Office and postal inspectors;
- (b) preventive security surveys;
- (c) investigation and interrogation techniques;
- (d) civil liberties, including the right of persons questioned to seek and retain counsel and to remain silent;
- (e) report writing;
- (f) machinery of government;
- (g) statistical analysis;
- (h) revenue protection; and
- (i) training specific to Post Office security problems such as theft, fraud, organized crime, and electronic mail.

SEC 9 The Post Office should, in addition to the basic training course, regularly offer compulsory refresher courses in all training elements, in order to ensure that postal inspectors are up-to-date on crime trends, investigative techniques, and new Post Office services. In addition,

- (a) training funded by the Post Office should be established in cooperation with police colleges and academies; and
- (b) continuing education be promoted through an incentive program for the reimbursement of tuition fees.

SEC 10 A postal inspector should only be considered for promotion when fully satisfactory job performance and the completion of advanced courses indicate that the inspector is ready to assume management responsibilities.

SEC 11 Senior postal inspectors with management responsibilities should receive instruction on how to manage the training of recruits, and should be held accountable for on-the-job training of recruits assigned to their units.

SEC 12 A senior postal inspector be appointed as Recruitment and Training Coordinator, responsible for:

- (a) restructuring basic and refresher training courses;
- (b) coordinating a new advanced course program;
- (c) supervising the annual competition to recruit new postal inspectors; and
- (d) liaison with police academies, colleges and universities, and the Public Service Commission's training establishments.

There is at present no one category of job classification within the Federal Government suitable for the Security and Investigation Services function. Hence, the Administrative Service (AS) category has been used to classify postal inspectors even though their work, involving as it does criminal investigations of the most confidential and sensitive nature, is hardly comparable with that of others such as administrative assistants who are similarly classified. Furthermore, postal inspectors, without regard to their work experience, are all classified at the AS-3 level with a salary range that overlaps that of postal supervisors or junior personnel clerks whose duties do not have nearly the same sensitivity. Inspectors-in-charge with many years of Post Office experience as well as management responsibilities are often paid less than mail-handlers with routine duties. The Commission disapproves of the practice, particularly widespread in the Quebec Region, of employing postal inspectors on an 'acting' basis for long periods of time. This practice limits management's ability to effectively plan and utilise its resources.

The Commission believes that the proposed change of status of the Post Office from that of a Department to a Crown Corporation provides an ideal

opportunity to rectify the anomalous classification and pay position of postal inspectors. As postal inspectors move into the context of the Inspector General Service under other Commission proposals, the Commission recommends that:

SEC 13 All postal inspectors, whether involved in preventive security or investigations, be grouped in a new job classification category (IGS) specifically designed for the Inspector General Service, ranging from the probationary recruitment level (IGS-1(p)) up through managerial and specialist ranks to the most senior levels (IGS-10).

SEC 14 The salary range for the recruit level of postal inspectors should be equivalent to the middle range of pay for postal supervisors (in the current ranges, approximately PO-SUP-3-4); and salary ranges for inspectors-in-charge should be equivalent to current Postal Management (PL) rates.

SEC 15 The Post Office Inspector General, reporting directly to the Chief Executive Officer of the Post Office, should be classified in the Senior Executive category and be a fully participating member of the senior management team.

SEC 16 The salary range for the Post Office Inspector General should be equivalent to the current range of pay for a Senior Executive — 02 (SX2) within the Federal Government.

SEC 17 "Term" and "Acting" assignments as postal inspectors should be limited to the following circumstances:

- (a) during the period when staffing procedures for permanent appointments are in progress;
- (b) during a fixed probationary period after appointment; or
- (c) to fill a short-term specialized need for expertise not available within the service.

Current job classification, pay scales, and in at least one region, the excessive use of acting and term assignments do not, in the Commission's view, enhance the appeal of a career as a postal inspector.

The classification of the limited number of postal inspectors' positions, starting at AS-3 for a new inspector and finishing at AS-8 for the National Director, do not provide adequate opportunities for career advancement. Nor do the pay scales provide strong incentives for remaining in the service. The Commission has noted with concern the tendency in the Quebec Region of the Post Office to use a Security and Investigation appointment as a stepping stone to management ranks. This has serious implications for employee perceptions of postal inspectors as being captives of management rather than independent of it.

The Commission believes that it is important to the credibility of postal inspectors within the Post Office that an attractive career path be developed

to ensure highly qualified recruits, a professional attitude to assignments, an interest in advanced training, a willingness to remain in the service, and a consistent standard of excellence.

In order to provide an attractive career path, the Commission has already recommended changes in the training, classification and pay of postal inspectors. To create a balanced and professional standard of work performance, the Commission recommends that:

SEC 18 A national policy be established to require an equitable proportion of Post Office and law enforcement experience among postal inspectors in every region.

SEC 19 The Inspector General Service, as a matter of policy, promote from within the service unless there is a need for a specialist to provide expertise not available within the service.

The Commission has noted that the United States Postal Inspection Service requires its inspectors to have served 20 years and have reached age 50 before they are eligible for full pension. This has the effect of discouraging movement in and out of the Inspection Service before 20 years service are complete, at which time senior inspectors may compete for management positions within the Post Office proper.

There are definite advantages to the maintenance of a stable work force of postal inspectors, both in terms of the resulting standard of work and of the strong career image. For these reasons, as a matter of policy, the Post Office should create incentives to ensure that postal inspectors remain in the inspection service for a reasonable period of time progressively acquiring more managerial experience at regional and Headquarters levels, prior to being eligible to compete for managerial, policy, or other positions outside the Inspector General Service. It is recommended that:

SEC 20 Before being allowed to compete for management or policy positions at Headquarters, postal inspectors should have served in both a region and at Headquarters and have worked at the level of inspector, senior (or specialist) inspector, inspector-in-charge and regional chief inspector.

Marketing Services (claims and enquiries), Financial Services (financial audit), Personnel Services (recruitment, hiring and screening) all have reason to cooperate with the security and investigation function from time to time. The Commission has noted that cooperation and assistance now are *ad hoc* —there is no system governing cooperation; there are no criteria used to establish when cooperation is mandatory. It is recommended that:

SEC 21 Criteria be established to ensure that Marketing, Finance and Personnel inform and consult the inspection service as soon

as possible after any potential crime or irregularity in procedure is detected.

SEC 22 Copies of all customer claims for indemnities be sent immediately to the local office of the inspection service, and procedures be established to prevent the payment of large claims until the inspection service investigates and approves such payment.

Cooperation between inspectors and local public police forces is essential to the effective performance of the security and investigation function. Evidence placed before the Commission indicates that cooperation at present varies from region to region and, within regions, from district to district. Often the degree of cooperation depends on the personal relationship which a postal inspector has developed with individual police officers.

A number of deficiencies in investigative techniques were noted by the Commission. The most prominent of these were weaknesses in record keeping; failure to place Occurrence Reports on case files; failure to use investigators' note books; and failure to complete files by closing them officially. Many of these faults can be overcome by better training and more rigorous supervision, but a closer association with professional police investigators on an on-going basis should also be of great assistance in raising the standard of Post Office investigations.

It is simple to state as a principle that whenever a possible offence against the Criminal Code takes place, the local police force must be called in immediately. In reality there are often grey areas in the preliminary stages of an investigation when postal inspectors may be able to assist the local police in gathering evidence for future criminal prosecutions. There is also a danger that by their diligence postal inspectors might inadvertently prevent the gathering of the evidence necessary for successful prosecution. Only if cooperation is continuous and total can mutual understanding of each other's particular problems and requirements be achieved between inspectors and police, and more cases be resolved. Inspectors-in-charge and police chiefs alike should strive to improve the level of cooperation. It is recommended that:

SEC 23 A program of police/postal inspector education be developed on a district level by local police chiefs and Post Office inspectors-in-charge. Symposia could complement a program of lectures, seminars, exchange visits and the sharing of statistics on Post Office crime.

The Commission heard much criticism from representatives of postal unions about the role played by postal inspectors in recent strikes by Post Office workers. The fundamental role of postal inspectors in protecting Post

Office employees and property does not change in strike situations. In performing this role, however, there is a clear requirement for members of security and investigation services to recognize that the normal relationship between management and labour, which includes strikes, is not a security matter. Postal inspectors are neither trained nor equipped to deal with civil disturbances or civil disobedience. If there are outbreaks of violence it is the responsibility of management to call in the public police. Similarly, while the Commission recognizes that in an illegal strike situation a case can be made for using postal inspectors to collect evidence for obtaining a court injunction, doing so involves inspectors in a labour-management dispute to the detriment of the security function after the dispute has been settled.

Inspection service cooperation with the security services of Post Office customers, particularly banks and large volume mailers, would also serve to improve preventive security in the Post Office and reduce the likelihood of losses through theft. When large shipments of valuables are scheduled for delivery to a postal facility, for example, there should be the closest liaison between the security officers of the customer and the local inspection service office. It is the Commission's view that although the security and investigation function is increasingly concerned with the problems of internal theft of mail, insufficient thought has been given to the vulnerability of mail in transit both by air and land.² Hundreds of unescorted mail carriers are despatched daily from major mail processing plants to smaller communities in all postal regions. There is an obvious need for closer cooperation with, for example, the security officers of trucking companies as well as provincial police and customer security units. It is recommended that:

SEC 24 Postal inspectors make a greater effort to meet their security counterparts in banks, the offices of large volume mailers and commercial courier services to assist in the development of crime prevention programs related to goods shipped by mail.

Although much has been done in recent years by Security and Investigation Services units to upgrade the priority accorded preventive security measures, there has been little support for this effort from outside Security and Investigation. The Commission was made aware of many instances of managerial neglect, low budgets and lack of interest in improving preventive security measures.

2. For example, it is now technologically possible to control the movement of a truck by installing an electronic computer device (black box) in it. Before the truck sets out on a journey, its route is set in the black box. Any substantial deviation from the set route immobilizes the truck. Before the truck can travel further the device must be dismantled, which requires a time-consuming, major mechanical operation.

Union leaders have been highly critical of management's apparent disinterest in preventive security but except for some local examples there is little written evidence that the unions have, in fact, made any kind of concerted effort to advise management of measures which could be taken to improve security. Management has claimed that preventive security is equal in importance to investigations and that, as a target, postal inspectors should devote 50 per cent of their total effort to it. As far as the Commission can determine, the time devoted to preventive security is far less than 50 per cent. In the larger district units it is probably about 10-15 per cent. The explanation given is that all units are short of inspectors and that investigations take priority in the daily work program.

Prevention must be the responsibility of all personnel. The most practical way to ensure total participation is to create a committee mechanism to oversee preventive security activities. It has been suggested that the success of employer-employee consultative committees in the field of occupational health and safety could well be repeated in the field of preventive security. Investigations and methods of investigation, however, should continue to be the sole responsibility of the inspection service. Accordingly, it is recommended that:

SEC 25 At district, area, zone and plant levels, as appropriate, management-labour consultative committees on preventive security be established. Management should be represented by the district, area, zone or plant manager (as chairman), and the senior Personnel, Financial and Marketing officers. Labour should be represented by local union executive officers. The Inspector General Service should be represented by the senior preventive security inspector.

SEC 26 Preventive security committees make recommendations to the Inspector General Service on the design and implementation of preventive security measures and on the education of all personnel about the need for, and purpose of, such measures.

SEC 27 Annual consultations between Post Office management and labour on preventive security be held at the national and regional levels.

Specific security activities which require more care and greater emphasis have been mentioned previously. One of the most important of these is the provision of advice when new facilities are being designed; when old facilities are being renovated; when new mail handling procedures are being developed and when new supplies and materiel are about to be purchased. Although postal inspectors expect to be consulted during the early planning

stages of new developments, the Commission has found that either they are not consulted at all or they are consulted too late for their advice to be effective.

A telling example of an operational decision that seriously affected the security of the mail was the increase in the maximum allowable weight for parcels to 30 kilograms. This increase may have made the Post Office parcel service more competitive against commercial courier services but the result has been an increased security problem at major mail processing plants. It was reported to the Commission, for example, that Gateway was designed to handle parcels carried in mail bags. When the allowable weight of parcels was increased, many parcels were too large to be carried in bags and had to be processed separately. Parcel wrappings no longer protected by the cushion effect of a mail bag are much more vulnerable to damage by automated processing machinery. The increased weight of parcels dropping from one level to another in the sortation process increased the number of breakages, thus exposing the contents of the parcels. The temptation to steal loose parcels, many of which carry advertisements about their contents, is much greater than the temptation to steal the unidentified contents of a mail bag. The temptation to steal loose material from broken parcels is even greater.

There is no evidence that postal inspectors had in fact anticipated the security problems associated with the increase in the allowable weight of parcels, nor is there any evidence that advice by postal inspectors would have changed the decision to increase the weight. Nevertheless, it is the opinion of the Commission that security considerations should be given much more thought when such changes are being considered. It is recommended, therefore, that:

SEC 28 Operations, Engineering, Marketing and Financial management at all levels of decision-making be held responsible for obtaining security advice at the preliminary planning stage of construction programs, equipment purchases, mail processing procedural changes, and other programs which might affect vulnerability of the mail or the security of Post Office assets and interests.

The Commission also observed that preventive security surveys are done only irregularly by postal inspectors. Indeed, only a few inspectors have been trained in, or have much experience with, preventive security surveys. Since the major theft at the Ottawa Alta Vista plant in 1979, surveys of major postal facilities have been carried out by the Protective Policing Directorate of the R.C.M.P. These, however, have covered only the twenty-two major plants of the over eight thousand postal facilities in Canada. The Commission, therefore, recommends that:

SEC 29 A regular program of preventive security surveys be designed to cover all postal facilities and that these surveys be conducted by postal inspectors.

SEC 30 The offer of the R.C.M.P. Protective Policing Directorate to provide training courses for postal inspectors in the techniques of conducting preventive security surveys, including on-the-job experience, be accepted.

Since the lack of official Post Office vehicles has in the past restricted the mobility of postal inspectors and made it difficult for them to make frequent visits to postal facilities in their districts, it is also recommended that:

SEC 31 Postal inspectors be assigned official Post Office vehicles to use for carrying out their duties.

Furthermore, there is little point in conducting preventive security surveys if management takes no action to implement the recommendations made. Therefore, it is recommended that:

SEC 32 Management personnel at all levels be held accountable through the annual job performance assessment process, for implementation of preventive security measures identified as necessary by security surveys.

During the Commission's many tours of postal facilities, common security weaknesses were identified. In several instances, these weaknesses had already been reported to local managers, some more than once, by postal inspectors and sometimes by union leaders. Remedial action had not been taken, often for budgetary reasons but sometimes for operational or marketing reasons. These security faults included:

- no perimeter fencing around certain postal facilities and where there is fencing, the gates are left open all the time and unguarded;
- uncontrolled public access to plant loading docks and lack of sufficient supervisors in loading dock areas;
- perimeter security CCTV is not effective at night in certain plants;
- in multiple occupancy buildings, stairwells, freight elevators, and entrances to sortation areas are easily accessible to non-postal workers; in one plant the public can enter the registered mail area with no difficulty;
- fire exit doors, controlled by crashbar latches and alarm systems, are left open in some plants and the alarms are disconnected;

- identification cards are worn on the outside of clothing by some workers but not by others;
- damaged parcels are stored in open unsupervised areas where they can be easily reached, thereby tempting would-be thieves;
- conveyor belts in some plants are not guarded from public access making the unobserved removal of mail a simple process;
- many employees do not use locks on their personal lockers;
- private courier services are allowed indiscriminate use of official Post Office mail bags and wire bins in some districts, thereby weakening Post Office control of mail handling;
- gallery break-out doors are blocked by metal bins in some plants.

Not all these security weaknesses were found in all plants visited but a sufficient number were common to many plants and therefore cause concern about the diligence of Post Office managers in their responsibilities for protecting the mail. The Commission is aware of the continuing security and investigation national program of establishing security standards for the many varieties of postal facilities. It is considered essential by the Commission that:

SEC 33 Security standards be established by National Headquarters and disseminated to all postal facilities and that management personnel at all levels be held accountable for ensuring that these standards are maintained.

SEC 34 As part of the security survey process, postal inspectors report to National Headquarters, and to line authority on the extent to which standards are not being met by management at postal facilities.

Fundamental to an effective preventive security program are the systematic analysis of crime trends and the results of remedial action taken to reduce criminal activities. Although National Headquarters does examine statistics reported by regions and attempts to chart crime patterns, there is no systematic process of statistical analysis at all regional and district levels. One of the reasons given is that there are too many investigations to be done and not enough postal inspectors to do them. Since investigations are given priority, even postal inspectors whose stated primary responsibility is preventive security are often assigned to them. The process of identifying specific security weaknesses and then devising strategies to overcome them must be the backbone of any successful preventive security program. Accordingly, it is recommended that:

SEC 35 At national, regional and district levels a program of statistical and operational analysis of criminal activity against the Post Office be undertaken by postal inspectors specifically designated and trained for this task.

The Post Office customer also has a role to play in preventive security. The Commission has seen examples of the poor packaging of parcels sent through the mail. Post Office standards for packaging are not enforced. Very rarely are improperly packaged parcels refused. Parcel shipping procedures are only loosely controlled and reliability checks of certain contract mail carriers are inconsistent. To reduce the vulnerability of parcels to loss and damage, it is recommended that:

- SEC 36** (a) Post Office regulations be amended to allow employees to refuse to accept for mailing any parcel which is not safely wrapped;
- (b) packages distributed by mail not carry external advertising;
- (c) commercial mail carriers be subject to an equivalent security screening as that applied to postal employees;
- (d) accounting and shipping practices of large volume mailers be closely audited on a regular basis by postal inspectors; and
- (e) serious efforts be continued to reduce the likelihood of damage to mail by machinery in automated plants.

Losses

It is clear from testimony before the Commission and from interviews with postal employees, that the Post Office does not know the extent of the losses it and its customers suffer. It has insufficient data to determine actual losses and identify loss trends. This applies equally to claims for undelivered mail, inventory control of tools, supplies and equipment, and damage to Post Office property.

Claims and enquiries for lost mail are settled by the local stationmaster or postmaster, except in Toronto where the population density permits the maintenance of a large Customer Services Unit to settle all claims. Large numbers of claims by a single customer for articles of significant value are often referred to Security and Investigation Services, however, the criteria for referral are unclear. In many instances, an employee in Customer Services, a postmaster or stationmaster who suspects a criminal problem simply telephones a postal inspector or calls on him personally to discuss the problem informally.

An effective information system must provide the right information to the right people at the right time in the right format. The Commission has concluded from testimony, interviews and research, that the Post Office needs to develop certain data in dealing with its claims to enable it to identify problems arising from lost, damaged or rifled mail. Adequate information should include:

- a file reference number for each claim
- date of mailing
- date of claim
- postal code of the sender or, in the case of mail from a foreign country, identification of the country of the sender
- postal code of the addressee or, in the case of mail to foreign destinations, identification of the country of the addressee
- class of mail (1st, 2nd, 3rd, 4th)
- category of mail (insured, registered, certified, insured Postpak or uninsured Postpak, C.O.D., Priority Post, International Priority Post, Special Delivery, money packet)
- value claimed by customer
- amount of Post Office insurance purchased, if any
- result of enquiry (payment of compensation, value not stated by claimant, addressee acknowledges receipt, no response from addressee, poor packaging, etc.)
- amount of compensation paid, if any
- date of delivery if item is found
- date on which the file is closed.

The information system should allow retrieval of data by various categories including month of mailing, postal code of the sender, postal code of the addressee, class and type of mail. Such retrieval will help pinpoint particular periods of the year when losses are high and indicate areas where further investigation is needed.

The system should also be able to supply information on the total number of claims per postal district, per month, per class and category of mail, and per loss type (loss, damage or rifling). The number of claims paid, the total value claimed and the compensation paid should also be available.

Accordingly, it is recommended that:

SEC 37 An information system be developed using computers to record, from Mail Enquiry or Application for Indemnity forms, information about claims for loss, damage and rifling of mail.

It is further recommended that:

SEC 38 A computer terminal be installed in each postal district for Claims and Enquiries or Customers Services personnel to enter data from the Mail Enquiry or Application for Indemnity form and for postal inspectors to extract data from the computer.

Adoption of these recommendations will meet the security and investigation needs of the Post Office. To make best use of computer time and capability, however, Customer Services and Claims and Enquiries should expand the program to allow comparison of claims which are accepted and those which are rejected; to allow study of the time elapsed between the date of mailing, the date on which the claim is filed and the date of the closing of the file; and to record the reason for any discrepancy between the value claimed by the customer and the compensation paid. The computer program should allow for optimum use by both Claims and Enquiries and the Inspector General Service to get the best value from the investment.

The computer could also be used for inventory control. The Commission was informed by one regional director of Security and Investigation that while a national system for inventory control is in place, it is of little help in determining and pinpointing losses of such items as tools and maintenance supplies for Post Office vehicles. One incident which is quite revealing on this point is the shortage of vehicle tires in a particular district which was not identified by inventory control but by a Security and Investigation audit conducted as a result of a complaint. The audit also revealed that about 80% of the tires on hand in this district bore no mark identifying them as Post Office property.

The Commission therefore recommends that:

SEC 39 The Post Office Department improve its inventory control system in order to allow the Department to know what stock is on hand, when replenishment is required, when stock movement is needed and between what locations. Whenever possible, Post Office identification marks should be permanently affixed to equipment and supplies.

Incidents of deliberate damage to Post Office property may be recorded by a plant manager or by the person responsible for the equipment. This information is not regularly transmitted, however, to Security and Investigation Services at the regional or national levels for use in planning preventive security programs. While many postal employees who were interviewed or

who testified before the Commission mentioned the problem of deliberate damage or vandalism, data on this subject are not readily available in departmental files. When the Commission requested information on the costs resulting from sabotage, arson and wilful damage recorded on Master Statistics Forms, it was not available. What little material was available differed greatly in the items recorded. The information received by the Commission did not include, in all instances, the date and location of the occurrence; what Post Office property or equipment was involved; what property of other departments or agencies was involved; and the costs of the damage. The absence of data makes it difficult to plan preventive security and security awareness programs to combat vandalism. It is therefore recommended that:

SEC 40 Incidents of deliberate damage or vandalism be recorded, with appropriate descriptive data and reports of such incidents be given to the Inspector General Service for investigation.

Post Office officials informed the Commission that the greatest proportion of claims for loss, damage or rifling involves insured domestic parcels. Both employees and union representatives complained that there is insufficient staff on the loading docks at mail processing plants to count large shipments of parcels delivered to the plants by large volume mailers. Postal employees normally must sign a receipt for such shipments and, when they do, the Post Office accepts responsibility for any loss. With insufficient postal employees on the loading docks to count parcels, it is relatively easy for dishonest deliverymen and shippers to remove parcels or not unload all of the shipment. Even a program of random counts would help. In this way, no shipper will know when the items in his shipments may be counted.

It is interesting to note that in one district of the Western postal region, a Security and Investigation Services inspector who was suspicious about claims from a large volume mailer instituted the practice of counting all parcels from the customer in question. During the 90 days following the beginning of the regular count, no claims for loss were submitted from this mailer. The Commission therefore recommends that:

SEC 41 Sufficient staff be assigned to loading docks to properly receive parcels from large volume mailers, and count them on a random basis.

At present the Post Office can ascertain that a parcel arrived at its destination only if it was sent C.O.D., by registered mail, by certified mail, by money packet service or by Priority Post and International Priority Post. The Commission was informed that a proof of delivery system, requiring the

signature of the addressee or his representative upon receipt of a parcel, was considered and rejected by the Post Office Department as being too costly.

No precise figures were suggested to the Commission on either the start-up costs or the on-going operating costs of such a system. A proof of delivery system for parcels would both reduce losses and greatly assist the investigation of losses that do occur. Since neither the precise value of losses is known nor the cost of instituting and operating a proof of delivery system for parcels, the Commission cannot make a firm recommendation that such a system be instituted. It does recommend, however, that:

SEC 42 The Post Office examine the cost of setting up and operating a proof of delivery system for parcels with a view to full or partial implementation.

The Commission has been informed of the annoyance felt by Post Office customers who buy insurance for items without being in any way aware that the articles do not qualify for postal insurance. Examples have been cited of jewelry made of precious metals being sent as insured mail but which, in order to qualify for an indemnity, must be sent by money packet service. Part of the customer's confusion undoubtedly arises from the insurance receipt which notes that money packets are not eligible for insurance without explaining what the money packet service provides. It is clear, for example, that postal customers do not know that some items must be sent by the money packet service or that fragile articles cannot be insured against damage. The Commission therefore recommends that:

- SEC 43**
- (a) Post Office insurance forms be modified to remove the present reference to money packets and instead list the articles that must be sent by money packet service;
 - (b) the forms also list the categories of mail that are not eligible for Post Office insurance, including C.O.D., registered mail, certified mail, second class mail, Priority Post and International Priority Post; and
 - (c) postal employees who assist customers in the purchase of insurance draw attention to these lists and remind customers that, while fragile and perishable items cannot be insured against damage, they can be insured against loss and rifling.

The Commission has noted that current regulations for Priority Post and International Priority Post provide an indemnity of up to \$500.00 only in the event of loss or damage. There is no reference to the customer's being entitled to compensation for rifling. The Commission has been advised that this is an oversight and that an indemnity would probably be paid to the customer in the event of rifling. Nonetheless, it is recommended that:

SEC 44 Regulations for Priority Post and International Priority Post be amended to add rifling as grounds for payment of indemnities.

The Commission was advised of frauds involving money orders where amounts on the face of the money order were raised after purchase. No losses due to the cashing of raised money orders at Post Office facilities were actually sustained by the Post Office itself during the fiscal year 1979-80, as all cash was recovered by the Post Office Department. Others, however, have incurred losses as a result of this activity. The Commission concludes that preventive measures are desirable and therefore recommends that:

SEC 45 The face amount of a money order be written once in figures and once in words to prevent raising the amount by adding additional digits.

Losses from money packets during the fiscal year 1979-80 amounted to a minimum of \$1,095,000. This amount is equivalent to 49% of the indemnities totalling \$2,222,187.50 paid for insured domestic, insured United States, insured foreign mail and insured Postpak during the same period. Despite the attraction which money packets containing valuables such as currency and gold bullion have for mail thieves, the money packet provides a necessary service to remote areas, which cannot at the moment be met in other ways. Courier and armoured car services make regular runs between large urban centres, and banks and other money packet service customers can have access to them. Remote areas do not have this facility. In 1964, the Post Office Department attempted to restrict its money packet service to areas where no alternative service with adequate security was available. This was reportedly not implemented, however, due to customer pressure. While the Commission recognizes the difficulties in providing security for high value shipments, the service is essential for remote areas. That being so, the Commission recommends:

SEC 46 The money packet service be continued but with enhanced security procedures appropriate to the value of the items carried. The rate structure for money packet service be increased to cover the cost of the additional security procedures.

It is further specifically recommended that:

SEC 47 The security procedures for the money packet service include:

- (a) a log recording the registration number and date of shipment to be kept at the post office receiving the packet;
- (b) a record accompanying the money packet from which a dated and signed receipt is issued to each postal employee when he turns the packet over to its next handler and eventually to the addressee; and

- (c) when the packet is delivered the record of its handling be returned to the originating post office for completion of the log and retention.

As a condition of employment postal workers agree to have their fingerprints taken to determine whether they have been convicted of any criminal offence. The authority for taking fingerprints is found in the Post Office *Personnel Manual* at paragraph 3-21-3.

Recruiting offices will arrange to fingerprint employees and forward fingerprint forms to the RCMP, Ottawa....

The rationale for the requirement that fingerprints be taken is found in the *Personnel Manual* at paragraph 3-21-1.

The Canada Post Office accepts as one of its responsibilities to the Canadian public the sharing of the task of rehabilitating persons with a criminal record. Security of the mail requires, however, that the Department refuse employment to those whose criminal records indicate that they may not yet be capable of accepting responsibility for safekeeping of valuables.

The Commission has no quarrel with the sentiments expressed. It is unlikely, however, that an employee's criminal record will be much use as an indicator of the probability of his rehabilitation. As a practical proposition, it is almost impossible to predict whether an offender will commit another crime. The Post Office has kept no centralized records as to the number of employees who have in fact been released because of previous criminality or the number of employees with previous criminal convictions who have actually committed crimes against the Post Office. The Commission has also noted that the policy on access to confidential personal files of postal employees is inconsistent. It is recommended that:

SEC 48 Access to confidential personal files of postal employees be restricted to:

- (a) staffing officers for purposes of hiring and promotion; and
- (b) postal inspectors, for purposes of criminal records checks or criminal investigation, upon written application to the Director of Personnel. Where such access is granted to postal inspectors, a note of it is to be placed on the employee's file.

The Post Office practice of hiring personnel and then subjecting them to a fingerprint/criminal records check may simplify the hiring process but it does not make much sense from the point of view of security. It is recommended that:

SEC 49 Fingerprint/criminal records checks be part of the hiring process and no prospective employee be taken on Post

Office strength until the check has been completed and a positive decision made on the prospective employee's reliability.

The Commission is concerned that postal inspectors in making recommendations on the employment or discharge of employees with criminal records, can only make value judgments. Experienced postal inspectors may exercise good judgement in these cases, but in the absence of a reliable, government-wide data base to predict with more certainty the risk of hiring those with criminal records, there is a danger that some prospective employees will be unfairly treated. In addition, part-time and full-time workers should be treated alike in respect of the requirement for security clearance. Both groups handle valuables in the course of mail processing. The Commission, therefore, recommends that:

SEC 50 In order to assist the Post Office to ensure a fair and equitable treatment of prospective employees, government policy on hiring persons with criminal records, and on the maintenance of statistical data to predict risks associated with such hiring, should be more explicit.

Postal inspectors are required to investigate alleged criminal offences. It is generally agreed by management and unions alike, however, that postal inspectors should not be involved in disciplinary cases. There is, however, no guarantee that the results of an investigation may not be resolved by disciplinary action instead of, or in addition to, criminal prosecution in the courts. In other words, inspectors will inevitably become involved in discipline cases if Post Office management takes disciplinary action against an employee who has been investigated for a suspected criminal offence.

Opinions on the appropriate investigative role of postal inspectors range from the extreme that they should have no investigative role and that public police should assume this responsibility, to the other extreme that they should have the full powers of peace officers within the meaning of the Criminal Code, thereby making it possible to pursue investigations through prosecution to sentencing without reference to the public police.

The Commission does not agree that the public police should undertake all investigations related to crimes against the Post Office nor does it agree that postal inspectors should be peace officers. Postal inspectors do have a role to play in investigating offences under the Post Office Act and the Financial Administration Act. Before the police are brought in to an investigation, postal inspectors should have gathered enough information to indicate the probability that an offence under the Criminal Code has been committed or is about to be committed. The Commission does believe, however, that once there is such evidence, the public police must be brought in to take

over the investigation. If in the opinion of the Crown Attorney sufficient evidence is collected to justify laying a criminal charge, then it is the opinion of the Commission that a charge must be laid and prosecution ensue. The Post Office should take no part in deciding whether there is enough evidence to lay a criminal charge. The substitution of disciplinary action for criminal prosecution should not be tolerated.

Certain corporations prefer to deal privately with employees who commit criminal offences such as fraud and embezzlement and not to involve the police. That approach is not acceptable for the Post Office since it is a public institution financed through public funds. The sentiment expressed in the Canada Post Instructional Information System directive no. 062-02D-1, (Page 6, Section 5(c)), that it may be in the best interests of the Post Office to waive prosecution in favour of disciplinary action when employees are involved in job-related crimes is, in the opinion of the Commission, not appropriate for a public institution. It is therefore recommended that:

SEC 51 Investigation of Criminal Code offences must be referred to the public police force and the decision on whether to prosecute made on the advice of the prosecutor having jurisdiction. Disciplinary action may also be taken but must not be used as a substitute for criminal prosecution.

A more detailed discussion of the rights and responsibilities of postal inspectors and the public police with respect to offences committed under the Criminal Code, the Post Office Act and the Financial Administration Act is found in Chapters 4 and 6.

Consistent with the need for closer cooperation with and better assistance from public police forces, postal inspectors should make arrangements to borrow from police forces such equipment as may assist in the thoroughness of investigations of crimes against the Post Office. Such equipment may include communications or optical devices and forensic aids. Electronic eavesdropping equipment, the possession and use of which is regulated by procedures prescribed in the Criminal Code, should be operated only by the police.

The Commission received in evidence allegations that postal inspectors had used polygraphs (lie detectors) during investigations of postal employees. While lie detectors may have been used by police forces, the Commission found no evidence that postal inspectors were responsible for their use. The Commission has concluded that current Post Office policy prohibiting postal inspectors from using lie detectors should remain in force.

The Commission heard many arguments for and against the use of investigative closed circuit television. One of the anomalies in this debate is

the fact that the observation gallery, the use of the human eye in a clandestine way, is more or less acceptable to postal workers but closed circuit television, the use of an electronic eye to serve the same purpose, is heartily rejected.

Post Office arguments in support of the installation of investigative closed circuit television are more logical and persuasive than the arguments against its installation propounded by the Post Office unions. There must be effective means of investigating theft within major postal facilities which handle large volumes of mail. In view, however, of the wholesale rejection of investigative closed circuit television by the union leadership, and the acceptance of the observation gallery system, decisions on whether to install additional galleries or investigative closed circuit television cameras should not be made until comprehensive cost-benefit studies have been conducted. The long term costs and benefits of construction and use of galleries (including the United States model of suspended prefabricated galleries) should be compared with the costs and benefits of long term use of television cameras — including replacement, maintenance and training costs for the entire investigative closed circuit television system.

The Commission has been unable to substantiate evidence that either observation galleries or investigative closed circuit television have been used improperly by Post Office managers and supervisors. Allegations to this effect have not been proven.

The Commission recommends that:

SEC 52 The observation gallery system be preferred for investigations. Only where the view from a gallery is obstructed or where cost-benefit analysis clearly indicates long-term financial savings should closed circuit television be used.

This recommendation must be accompanied by a number of safeguards. It is, therefore, also recommended that:

SEC 53 (a) Both observation galleries and investigative closed circuit television continue to be accessible only to postal inspectors for the investigation of crimes against the Post Office;

(b) entrances to observation galleries and investigative closed circuit television monitoring rooms continue to be carefully controlled by locked doors for which keys are given only to postal inspectors; and

(c) annual reports on the use of observation galleries and investigative closed circuit television and the results of investigations employing them be reported to the Postmaster General and conveyed by him to Post Office union leaders.

If security guards are to be effective they must be trained well and paid well. A good security guard force will greatly strengthen preventive security programs. The Commission was impressed with the decision of Ontario Region to hire Post Office security guards in the large mail processing plants at Gateway and South Central. The Commission was also impressed with the concept of 'plant protection officer' developed in the Western Region. It is recommended, therefore, that:

SEC 54 The Post Office expand its permanent security guard force into a national force to replace those security guards now provided by the Corps of Commissionaires and private security guard companies.

SEC 55 The Post Office Security Guard Service be the responsibility of the Inspector General Service.

SEC 56 The concept of 'plant protection officer' as developed in the Western Postal Region be adopted by the Inspector General Service for all major mail processing plants. Security guards in these plants will report to Plant Protection Officers who will have the same authority as junior postal inspectors.

SEC 57 Programs be provided on a national basis to recruit and train to national standards security guards for permanent employment in all the major mail processing plants.

SEC 58 Security guards be paid, at a minimum, the equivalent hourly rate of postal clerks and be given similar career and pay advancement prospects.

As a result of its research and discussions with officials of the Canadian Post Office Department, the United States Postal Inspection Service and private communications companies, the Commission is convinced of the need for the Post Office to develop a greater awareness of the security problems inherent in computer technology and data transmission processes.

Post Office officials informed the Commission that, at present, expertise in the security of electronic data processing is provided by the R.C.M.P. Such electronic mail services as Telepost and Intelpost, which are joint ventures with Canadian common carriers, have not been subjected to rigorous security evaluation by the Post Office, although some thought has been given to the physical security of customer outlets for these services.

During the fiscal year 1979-80, the Telepost service alone transmitted 658,989 messages, an increase of 63 per cent over the previous year.³ A recent article stated:

Reports out of the United States predict that by the end of the '80s, users will be spending over \$4 billion per year on

3. Post Office Department, 1980 Annual Report at page 17.

electronic mail services and equipment. Current spending is estimated at \$1 billion.

If the ten per cent rule of thumb were to be used, Canadian estimates could be placed at \$400 million over the same time period.⁴

The telecommunications industry predicts that the future of postal delivery lies with electronic mail. Senior Post Office officials have confirmed this view. The Commission concludes, therefore, that the Post Office must develop the in-house capability to plan for the security of electronic mail services, to analyze security weaknesses, and to take remedial action.

The Commission accordingly recommends that:

SEC 59 Headquarters, Inspector General Service, be responsible for advising the Marketing and Operational Services Divisions on all aspects of security relating to the introduction and operation of electronic mail.

The Commission also recommends that:

SEC 60 The R.C.M.P. immediately be requested to advise the Inspector General Service on the establishment of a unit responsible for:

- (a) planning and implementing security for electronic mail services and associated computer facilities; and**
- (b) investigating breaches of security in electronic mail services and associated computer facilities.**

The Commission has studied the many security directives and instructions produced by the National Director of Security and Investigation and his staff.⁵ Security goals are stated in the various manuals available to Post Office personnel. There is, however, a marked discrepancy between the stated intentions of Post Office security policies and the implementation of these policies. One problem is the decentralized structure of the Security and Investigation function. Another is the low priority given by most levels of Post Office management to security activities, training, and resources. Many Post Office personnel are fatalistic about losses in the mail and express skepticism that much can be done about losses no matter how many improvements are made to the Security and Investigation function. Nevertheless, the Commission is confident that the adoption of the recommendations made in this report will make it possible for the Post Office to protect the mails and reduce losses.

4. "Spending on electronic mail could increase 400 percent", Beverley J. Bleackley, in *Computer Data*, February 1980, at page 30.

5. It was noted that very few important security directives and instructions, such as the *Manual of Information for Postal Inspectors*, have been fully translated into French for the benefit of postal inspectors whose working language is French.

APPENDIX A



COMMISSION OF INQUIRY RELATING TO THE SECURITY AND INVESTIGATION SERVICES BRANCH WITHIN THE POST OFFICE DEPARTMENT.

TAKE NOTICE that by Order-in-Council P.C. 1980-1310, the Committee of the Privy Council appointed His Honour Judge René J. Marin, a Commissioner under Part II of the Inquiries Act to investigate and report upon,

- a) the operations and activities of the Security and Investigation Services Branch of the Post Office Department relating to criminal investigations and the enforcement of the postal offence and penalty provisions of the Post Office Act and the Criminal Code;
- b) a proposal to confer the status of peace officer within the meaning of the Criminal Code, upon employees in that Branch relative to criminal investigations and enforcement activities aforesaid; and
- c) the circumstances under and the manner in which the status might be conferred upon the employees aforesaid, if at all.

1. The office of the Commission has been opened at 171 Slater Street, Vanguard Building, Ottawa, Ontario.
2. The Commission invites public participation by way of written submissions and public or private meetings or hearings. The confidentiality of all submissions will be respected.
3. Hearings will commence at Ottawa on July 14, 1980, and will continue until August 29, 1980, or such other dates as may be deemed necessary. Subsequent hearings may be held at other locations from time to time and notice of the date and place of each such hearing will be given to those persons who advise the Secretary that they wish to receive such notices.
4. All persons wishing to appear before the Commission at either public or private hearings or at private meetings, are requested to notify Commission Counsel or the Secretary of the Commission, as soon as possible.
5. The Commission requests that all submissions and requests for meetings be forwarded on or before July 21, 1980.
6. Submissions, inquiries and other communications should be directed to either:

David W. Scott, Esq., Q.C.
Associate Counsel
Commission of Inquiry
Relating to the Security and
Investigation Services
Branch within the Post
Office Department
c/o Scott & Aylen
170 Laurier Avenue West
Ottawa, Ontario
K1P 5Y5

Ms. Lynn MacDonald
Secretary
Commission of Inquiry
Relating to the Security and
Investigation Services
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P.O. Box 1950
Station B
Ottawa, Ontario
K1P 5R5
Tel: (613) 996-5165

APPENDIX B

IN THE MATTER of The Inquiries Act, R.S., c.154; and

IN THE MATTER of an inquiry under Part II of the said Act relating to the Security and Investigation Services Branch within the Post Office Department; and

IN THE MATTER of a request for Commission documents and working papers.

APPEARANCES

David W. Scott, Q.C.	— Counsel for the Commission
Thomas A. McDougall, Q.C.	— Counsel for The Canadian Union of Postal Workers; Letter Carriers' Union of Canada The Public Service Alliance of Canada, International Brotherhood of Electrical Workers, and The Canadian Labour Congress
Peter McInenly, Esq.	— Counsel for the Post Office Department

R U L I N G No. 1

This is a ruling on a request made by Thomas A. McDougall, Q.C., on behalf of his clients. The request made in writing purported to demand access to the following documents:

1. All documents the Commission receives, from whatever source.
2. Copies of all working reports generated by the Commission or those retained by the Commission including any consultants.

Mr. McDougall was given status before this Commission on July 28th last. At the time, the Commission recognized his status by outlining that he should have "the right on behalf of his clients to attend and be recognized at all 'public hearings'".

It is, at that time, that counsel made the above request which he particularized in a letter dated August 11th. To the Commission, he reinforced his request by verbal submission made in Toronto at the beginning of the hearings in that city on August 28th. Commission counsel on that date opposed the request of Mr. McDougall. Counsel for the department, after indicating he would not be seeking the same relief, also argued against the request of Mr. McDougall, adopting however, a position different from Commission counsel: he submitted that the Commission does not have the power to release evidence or documents gathered in the course of its inquiry. He relied (*inter alia*) on: B.C. Packers Ltd. et.al. v. Smith et.al. (1961) O.R. 596;

Canadian Fishing Co. Ltd. et.al. v. Smith et.al. (1962) 32 D.L.R. (2d) 641;

Re The Imperial Tobacco Co. Ltd. et.al. and McGregor (1939) O.R. 213;

Advance Glass & Mirror Co. Ltd. et.al. v. A.G. of Canada and McGregor (1950) 1 D.L.R. 488;

Johnson & Co. Ltd. v. Minister of Health (1947) 2 All E.R. 395.

Counsel for the unions bases his request on the fact that a commission of inquiry is, to an extent, an administrative tribunal and as such is obliged by the rules of natural justice to disclose to interested parties the material which it proposes to take into consideration as a basis of its decision. In support of this proposition, counsel draws the attention of the Commission to the decision of Seafarer's International Union of Canada v. CNR (1976) 2 F.C. 369.

His submission is further supported by an argument that parties to a controversy should be given a fair opportunity to correct or contradict any relevant statements prejudicial to their views or interests.

As counsel for the Commission properly suggested in his submissions, this Commission cannot be compared to an administrative tribunal nor is it desirable that it be governed by the rules which govern administrative tribunals. A commission of inquiry, under Part II, does not make any decision but is merely empowered to make recommendations for consideration of the minister, which recommendations may or may not be adopted by the department concerned. The Commission's role in that regard is quite dissimilar to an administrative tribunal; any jurisprudence surrounding the obligation of such tribunals cannot, in my view, apply to this Commission.

In Re Bartolotti and Ministry of Housing, 15 O.R. (2d) 617 at page 623, the Court said that a "commission of inquiry is charged with the duty to recommend and report. It has a very different function to perform from that

of a court of law or an administrative tribunal". See also in that regard *Re Ontario Criminal Tribunal* (1963) 1 O.R. 391.

As to the argument that a person adversely affected by a recommendation should be given a fair opportunity to correct or contradict Commission views, I merely draw the attention of counsel to the provisions of section 13 of the Inquiries Act which reads as follows:

"No report shall be made against any person until reasonable notice has been given to him of the charge of misconduct alleged against him and he has been allowed full opportunity to be heard in person or by counsel. R.S., c.154, s.13."

I am, therefore, of the view that the first ground advanced for the request cannot be said to impact at all on the Commission.

The more substantive, if not the more serious basis upon which the demand is based, is the requirement that the rules of natural justice be applied.

The Commission in considering its mandate has taken a liberal and broad approach to its work and in order to discharge that mandate, it has conceived of various approaches. In the first instance, it has retained investigators and consultants to enable it to research the problems inherent to its mandate. Reports emanating from these persons are continually being examined by the Commission in order to determine whether additional witnesses should be called and whether additional documentation might be requisitioned. It is to be noted that the thrust of the questions of the Commission at both public and in-camera hearings was guided in part by the research conducted by Commission staff.

It is the view of the Commission that counsel for the unions has directly and indirectly benefitted from the aggressive and probing questions asked as a result of investigations carried out by this Commission. I also wish to add that on at least two occasions when a public hearing was transformed into an "in-camera" hearing, counsel for the unions was invited to participate fully and exhibits filed at those in-camera hearings have been and remain available for inspection of counsel at the Commission's offices.

All submissions of counsel suggesting that the rules of natural justice ought to be observed by this Commission find the utmost of sympathy with the undersigned. It is for that reason that this Commission has allowed considerable scope to the questioning of witnesses by union counsel and on occasion, the Commission has seen fit, in its discretion, to allow hearsay evidence to become part and parcel of the evidence before the Commission

in the hope that no one would be adversely affected and that the matter would, in the end result, be allowed proper weight depending on both relevancy and admissibility.

I hasten to add that since union counsel was given status, a large number of witnesses were called by the Commission at its request. To date, this Commission has not on one single occasion seen fit not to call a witness so identified by the union. These steps were taken to insure that the rules of natural justice would be applied and to insure the widest possible participation in the Commission's work by the more than 65,000 union employees who work within the department.

Always sensitive to the rules of natural justice, this Commission has even seen fit to include in its mandate, at the urging of the unions, two issues which the unions saw as vital to its members, namely,

- (a) mail opening; and
- (b) closed circuit television.

On the issue of closed circuit television, this Commission has further requested counsel for the department to obtain, from his superiors, a clear statement as to the progress being made in activating and installing new systems. The Commission was pleased recently to note the reaction of the department in temporarily suspending any further commitments in that regard.

At the time counsel for the union outlined his request, I asked to be informed whether there were any precedents in Canada or anywhere in the Commonwealth of a commission of inquiry opening its affairs to counsel or interested group with status. I note that the memorandum of law in this matter is silent on such precedent. In fact, the Royal Commission on Tribunals of Inquiry in the United Kingdom, in outlining the cardinal rules for its operations, stopped quite short of making such a recommendation. There are several reasons why full access might not be desirable. In some areas it may preclude, if not completely halt, the free flow of information, preclude information through private hearings and hamper all investigative probing, to say nothing about departmental employees who might contribute to the work of the Commission but would refrain from doing so because of fear of reprisal if no protection against public disclosure was extended.

What more can a commission do to insure that the rules of fairness and natural justice are observed?

In the Commission's view, fairness includes broad access to calling of witnesses, access to exhibits as outlined above and the opportunity to call

witnesses in preparation for submissions at the conclusion of the Commission's hearings. In my view, the decision in *Nicholson v. Haldimand-Norfolk Regional Board of Commissioners of Police and A.G. Ontario* (1979) 1 S.C.R. 311, has little or no effect upon the work of a commission of inquiry which is charged only with the preparation of recommendations for ministerial consideration. Several inquiries in recent months have adopted this view and I am re-enforced by the path followed in that regard by the McDonald Commission, the Krever Commission and the Gibson Commission.

No one other than Commission staff ought to participate in the private work of the Commission as a general rule. Counsel for the department has supported Commission counsel arguing a question of privilege. In my considered opinion, and because of the above ruling, it would be unnecessary to canvass all of his arguments at this point, although I note that these were exhaustive and were well considered.

Commission counsel has recommended that certain selected documents of the Commission should be made available in one form or another if these are to be exclusively relied upon by the Commission in its recommendation. That submission is fair and will be considered by the Commission at the appropriate time; this recommendation and its acceptance, however, ought not to suggest to counsel that product of research by Commission staff will be available, nor that the product of interviews will otherwise be made public. I am of the view, rightly or wrongly that there is no public policy which intervenes in that regard compelling this Commission to go any further.

Dated at Ottawa, this 3rd day of September, 1980.

René J. Marin
Commissioner

APPENDIX C

IN THE MATTER of The Inquiries Act, R.S., c.154; and

IN THE MATTER of an inquiry under Part II of the said Act relating to the Security and Investigation Services Branch within the Post Office Department; and

IN THE MATTER of a request by counsel for the unions for documents of the Post Office Department.

APPEARANCES

David W. Scott, Q.C.	— Counsel for the Commission
Thomas A. McDougall, Q.C.	— Counsel for The Canadian Union of Postal Workers; Letter Carriers' Union of Canada; The Public Service Alliance of Canada; International Brotherhood of Electrical Workers; and The Canadian Labour Congress
Peter McInenly, Esq.	— Counsel for the Post Office Department

R U L I N G No. 2

On July 28th last, counsel for the unions sought production of documents from the Post Office Department at a public hearing of this Commission and for the purpose of expediency, it was suggested that the request for production ought first to be communicated to counsel for the department and ultimately, in the event of disagreement, to Commission counsel who would make submission to this Commission as to production. Since there has not been full agreement between counsel, the Commission is asked to make the appropriate ruling as to whether or not an order should be considered under section 8 of The Inquiries Act, R.S., c.154.

On August 11, 1980, counsel for the unions wrote to counsel for the department, requesting the following documents:

1. All training manuals for Security and Investigation Services officers, including current and past manuals.
2. All notes and documentation regarding training or instruction sessions for Security and Investigation Services officers and, without limiting the generality of the foregoing, the training sessions attended by Messrs. Bois and Latrémouille.
3. All cards setting out warnings given to Post Office employees suspected of misconduct by Security and Investigation Services officers. (It is our understanding that there is more than one version in use across the country.)
4. All written instructions from Security and Investigation Services to Post Office staff.
5. "Lock box" regulations for Security and Investigation Services.
6. Any directives regarding offences committed, or allegedly committed, by postal workers (both work-related and non-work-related).
7. All documents, directives, reports and correspondence regarding mail openings or mail cover checks by the RCMP.
8. All documents, directives, reports and correspondence regarding mail openings or mail cover checks by Security and Investigation Services.
9. All documents, directives, reports and correspondence regarding Security and Investigation Services involvement in controlled delivery of mail.
10. All written rules and procedures regarding security as set out in Order Books or Information Books or various manuals referring to security.
11. All written information, including statistics, regarding losses from the Ottawa Post Office.
12. The contents of Mr. Clare's personal file with respect to Allen Steele.
13. All documents and memoranda with respect to Allen Steele including any documents prepared by Messrs. Latrémouille, Bois, Drapeau and Boisvert. In particular and without limiting the generality of the foregoing, the recent report on the incident by Mr. Drapeau or other senior personnel within Security and Investigation Services.
14. A list of the persons in the Legal Services Branch of the Post Office Department at the time of the Steele incident.
15. A list of the persons in the national headquarters and regional office of Security and Investigation Services at the time of the Steele incident.

16. Any organizational chart available of both the national headquarters and regional office of Security and Investigation Services.

17. All documents, directives, memoranda and correspondence regarding the proposal of peace officer status for Security and Investigation Services officers, including without limiting the generality of the foregoing, any memoranda or correspondence between Mr. Traynor and past or present members of Security and Investigation Services.

On August 26th, the above request for production was enlarged upon and the following is recorded in an exchange of correspondence:

18. All documents, directives, reports and correspondence regarding closed circuit television to be installed or installed for investigative purposes in post offices throughout Canada.

19. All documentation regarding the dismissal of Mr. Raedler, former manager of the Vancouver Post Office.

20. All notes and documentation regarding training or instruction sessions given in the Western Postal Region for Security and Investigation Services officers.

21. All documentation regarding suggested role for Security and Investigation Services under proposed Canada Post Corporation.

22. All documents, directives, reports and correspondence regarding the role of Security and Investigation Services in the CUPW strike of October, 1978.

23. All written instructions regarding the use of lie detectors in Security and Investigation Services investigations, whether by Security and Investigation Services directly or by police forces also involved in such investigations.

24. All written instructions or directives to Security and Investigation Services or other Post Office personnel regarding cooperation with Customs officers.

25. Copy of report and supporting documentation from the Inquiry into Vandalism in the Toronto Post Office, conducted by Mr. Hubling.

26. All instructions and directives to Security and Investigation Services personnel regarding the obtaining of security clearances for Post Office personnel.

Filed with this Commission is a letter dated August 26, 1980, from counsel for the department addressed to counsel for the unions, purporting to deal with the request for production of items 1 to 17; the following is

extracted from that letter. Each item relates to numbers drawn from the letter of August 11th. Item 1 — I am advised that the only manual in existence is that one entitled "Manual of Information for Investigators" which the Department is prepared to make available to you in private hearing.

Item 2 — I am advised that the notes and documentation to which you refer, if there be any, would be in the possession of the candidates. I am enclosing herewith a list of the subjects dealt with during the course of these sessions between 1973 and 1980 with the exception of 1975 and 1978 for which, I am told, an outline no longer exists. I understand, however, that courses were given in those years and that the basic format and subject matter was adhered to.

Item 3 — I am enclosing herewith a photocopy of the various warnings in use across Canada as they have been made known to us.

Item 4 — In the absence of more detail regarding the identification of specific documents, the Department does not propose to consider this item any further.

Item 5 — A copy of the *Mail Receptacle Regulations* is enclosed.

Item 6 — This item has already been produced to you as Appendix "C" to Exhibit 15.

Items 7, 8 & 9 — I am advised that this material was originally compiled and submitted to the McDonald Commission. To the extent that the McDonald Commission is prepared to make it available to you, your request should be directed to them.

Item 10 — In the absence of more detail regarding the identification of specific documents, the Department does not propose to consider this item any further.

Item 11 — I am enclosing herewith a copy of available information regarding losses in and for the City of Ottawa.

Item 12 — I am advised that Mr. Clare has no personal file concerning Mr. Steele.

Item 13 — It is the position of the Department that all Security and Investigation investigative files are confidential and will not be produced to you. All reports prepared in respect of that matter will similarly be withheld from production.

Item 14 & 15 — The basis for these requests and their relevance to the matters in issue has not been made known and production will therefore be withheld.

Item 16 — Copies of the relevant organizational charts are enclosed.

Item 17 — Documentation prepared internally for consideration and study by members of management will not be produced.

On the same day, counsel for the department purported to address items 18 to 26, and the following paragraph is extracted for the record from a letter of the same date:

"As with your previous request, efforts will be made to ascertain the existence and location of such documentation following which it will be considered and a decision taken on whether or not it will be produced. To the extent that you feel that this might have some bearing on your ability to develop a submission, I suggest that you pursue whatever course of action you feel is necessary and can be substantiated before the Commission and govern yourself accordingly."

On September 3rd, counsel were invited to make verbal submissions at the conclusion of which this Commission was asked to rule upon the request for production. Union counsel suggested that the Commission enforce its ruling by the issue of a subpoena to compel full production or alternatively most documents sought.

Counsel for the unions takes the position that many of the documents requested from the department have already been fully canvassed at public hearings and any confidentiality attaching to these documents can no longer be said to preclude production. It is also suggested that documents pertaining to Security and Investigation Services Branch ought to be fully explored in order to enable full and adequate submission on behalf of parties having status. Counsel concluded by suggesting that a subpoena should be issued, compelling production either directly to counsel for the unions or alternatively production to the Commission with the right to inspect and make further submissions as to public release of any or all documents.

Counsel for the department has taken the view that no one has the right to production of documents in the hands of the Commission or in the hands of the department. In a written memorandum of law filed by counsel for the department, the following arguments are canvassed:

1. No one has the right of "discovery" of documents in the hands of the Commission. Such persons may be given a full opportunity to make their submissions, but to require disclosure of all documents and information

before the Commission in order to be able to meet every consideration that may form the basis of the decision of the Commission, would be to usurp the function of the Commission.

Johnson & Co. (Builders) Ltd. v. Minister of Health (1947) 2 All E.R. 395.

Seafarers International Union of Canada v. CNR (1976) 2 F.C. 369 at p.381.

Advance Glass & Mirror Co. Ltd. v. Attorney General for Canada & McGregor (1950) 1 D.L.R. 488.

British Columbia Packers Ltd. et al. v. Smith (1961) O.R. 596, 602-603.

2. With the exception as noted, the Commission is under no duty to disclose to any party, evidence, information and opinion which it proposes to consider in coming to its decision. The Commission is a purely investigative body acting administratively. Since it has no decision making power and its report can in no way affect individual rights, there is no basis upon which any such procedural obligation can be said to exist. Even a tribunal which is under a duty to apply the rules of natural justice is not obliged to disclose all documentation considered by it.

Advance Glass & Mirror Co. Ltd. v. Attorney General of Canada and McGregor (1950) 1 D.L.R. 488.

Nicholson v. Haldimand-Norfolk Regional Board of Police Commissioners (1979) 1 S.C.R. 311 at p.327 quoting with approval *Selvarajan v. Race Relations Board* (1976) 1 All E.R. 13 at p.19.

The fundamental rule is that, if a person may be subjected to pains or penalties or be exposed to prosecution or proceedings, or deprived of remedies or redress, or in some such way adversely affected . . . he should be told the case made against him and be afforded a fair opportunity of answering it. The investigative body is, however, master of its own procedure. It need not hold a hearing. It can do everything in writing. It need not put every detail of the case against a man. Suffice it if the broad grounds are given

The decision of the Commission to hold hearings cannot create rights in persons other than the Commission that they would not otherwise have.

Seafarers (ante) at p.375.

3. Section 13 of the *Inquiries Act* gives a statutory right to be heard to any person against whom a report alleging misconduct is to be made by the Commission. It is only under this provision that anyone could assert any right to disclosure, and then that right would be to disclosure only of the substance of the case against the person to be accused of misconduct. It is

not contemplated that any such report will be made by the Commission and that, in any event, such a report would be preceded by the notice contemplated by that section. Even in cases where such a report was to be made, in the absence of express statutory provision, the Commission would be entitled to disclose to a party only such evidence as relates to the allegations against him.

Advance Glass (ante).

Canada Fishing Co. v. Smith (1962) 32 D.L.R. (2d) 641, at pp.652-657.

Johnson (ante), at p.404.

British Columbia Packers Ltd. et al. v. Smith (ante)

4. The Commission is obliged to investigate and report to the Minister on certain business of the Post Office Department. It has access in an administrative capacity to files and documents belonging to the Post Office Department. Disclosure to any person other than the Commission of such documentation cannot be compelled. The Commission's obligation in this case, and its power of disclosure, is limited to disclosure of information which comes into existence for the purposes of any "quasi-lis" which arises under the provisions of section 13 of the *Inquiries Act*. To do otherwise would constitute an interference with private rights.

Local Government Board v. Arlidge (1915) A.C. 120, at p.137.

Johnson (ante), at pp.400-401.

British Columbia Packers Ltd. et al. v. Smith (ante).

Commission counsel takes the position that the Commission ought not to issue a subpoena in blank to any party since the exercise of such power would be tantamount to giving up the control of the inquiry, which in the circumstances would be inappropriate. He further contends that the exercise of the powers vested in this inquiry by virtue of section 8 (above referred to) is one which should be exercised with caution and always a power to be exercised in the interest of the Commission.

Commission counsel also expressed the view that some of the items requested lack particularity and the parameters of the request are so wide as to make it impossible to meet. With respect to that last comment, the Commission notes that in many instances the lack of particularity of the request is of the utmost concern and in at least one instance, if not more, is impossible to meet.

Commission counsel is of the view, however, that in the interest of fairness, some production could be compelled at in-camera hearings to assist counsel for the unions in preparing his final arguments while other documents might be made public forthwith upon production.

Because of the abundance of jurisprudence in the areas of production with administrative tribunals and the total absence of any precedents dealing with commissions of inquiry, I am of the view that it would be useful to canvass the state of the law before giving a ruling on the request of counsel for the unions.

In *Local Government Board v. Arlidge* (1915) A.C. 120, Viscount Haldane L.C. touched on the procedure to be followed by administrative boards and the issue of disclosure. He stated at p.137:

I incline to hold that the disadvantage in very many cases would exceed the advantage of such disclosure. And I feel certain that if it were laid down in Courts of law that such disclosure could be compelled a serious impediment might be placed upon that frankness which ought to obtain among a staff accustomed to elaborately detailed and often most delicate and difficult tasks. The very same argument would lead to the disclosure of the whole file. It may contain, and frequently does contain, the views of inspectors, secretaries, assistants and consultants of various degrees of experience, many of whose opinions may differ but all of which form the material for the ultimate decision. To set up any rule that that decision must on demand, and as matter of right be accompanied by a disclosure of what went before, so that it may be weakened or strengthened or judged thereby, would be inconsistent, as I say, with efficiency, with practice, and with the true theory of complete parliamentary responsibility for departmental action. This is, in my opinion, implied as the legitimate and proper consequence of any department being vested by statute with authority to make determinations.

He concluded at p.138:

"These views may be illustrated by the demand in the present case. The respondent admits that a public local inquiry was held; but he asks (1) to see as of right what report was made to the department upon it, and (2) to be heard thereafter over again on the whole case. I think neither demand to be justified. And with regard to the latter I would add that the very fact that the Act expressly imposes publicity upon the local inquiry — for reasons, in cases of sanitation and the public interest therein, not far to seek — by implication negatives anything of the kind in regard to the numerous other steps taken in the working of an administrative department. I entirely agree with Lord Summer in his view on this head.

The words "natural justice" occur in arguments and sometimes in judicial pronouncements in such cases. My Lords, when a central administrative board deals with an appeal from a local authority it must do its best to act justly, and to reach just ends by just means. If a statute prescribes the means it must employ them. If it is left without express guidance it must still act honestly and by honest means. In regard to these certain ways and methods of judicial procedure may very likely be imitated: and lawyer-like

methods may find especial favour from lawyers. But that the judiciary should presume to impose its own methods on administrative or executive officers is a usurpation. And the assumption that the methods of natural justice are ex necessitate those of Courts of justice is wholly unfounded. This is expressly applicable to steps of procedure or forms of pleading. In so far as the term "natural justice" means that a result or process should be just, it is a harmless though it may be a high-sounding expression; in so far as it attempts to reject the old *jus naturale* it is a confused and unwarranted transfer into the ethical sphere of a term employed for other distinctions; and, in so far as it is resorted to for other purposes, it is vacuous."

In *Re The Imperial Tobacco Co. Ltd. et al. and McGregor* (1939) O.R. 213, the issue before the Ontario High Court of Justice was whether "certiorari" lies to quash a report made under The Combines Investigation Act. Hogg, J. refused to give the relief sought but made the following comments on administrative tribunals at p.219:

"The question whether the investigation made by the Commissioner into the affairs of the applicant companies is a judicial proceeding or not, and whether the report of the Commissioner could or does affect the rights of the said companies is, because of the judgments of the Judicial Committee in the above mentioned appeals, not open to consideration.

The investigation is an administrative and not a judicial proceeding. It is conducted for the purpose of obtaining information which, with the conclusions of the Commissioner based upon such information, are submitted to the Minister of Labour. No rights of the persons whose business activities have been investigated are determined or affected by the report itself, and some further action outside of, and apart from, the report is required before such rights are affected.

The principle has been firmly established by the judgments in several outstanding cases in the Courts in England and in the Judicial Committee, that certiorari will not be granted in respect to proceedings that are not judicial in their nature and the result of which does not determine or affect the rights of the subject of such proceedings."

In *B. Johnson & Co. (Builders) Ltd. v. Minister of Health* (1972) 2 All E.R. 395, the English Court of Appeal dealt with the disclosure of information and the duty to act fairly. Again, while the decision does not deal with commissions of inquiry, the principle established by the court makes it clear that a minister has no obligation to make available any material upon which he relied prior to making a decision under the Housing Act. Greene, M.R., at p.400 stated:

"On the assumption, for instance, that the respondents are wrong in their contention, and that there was no obligation to disclose these documents, I can well understand some people might say:

'Well, unless there was some other objection, the Minister ought, in fairness, to have let these people know what he had got in his file on this particular topic.' If the Crown is right and the respondents are wrong, the statement that in fairness he ought to have disclosed that information means nothing more than that, as a Minister is expected to act fairly, he might have been expected to do it. It would not mean that his failure to do it amounted to a breach by him of any duty imposed on him by law which could be discussed and enforced in the courts. On the other hand, if the expression "bound to act fairly" is used in strict reference to his semi-judicial function, it then bears a totally different meaning. It then means, not that a Minister must be expected under his general duty to act fairly, but that, if he does not act fairly, he breaks a rule laid down by the courts for the behaviour of a quasi-judicial officer. Therefore, it is important, in my opinion, if that phrase is used, to be quite sure in which of those two senses it is being used."

One of the most often quoted decisions with respect to the power to release evidence is *British Columbia Packers Ltd et al. v. Smith, MacDonald and Attorney-General of Canada* (1961) O.R. 596, a decision of Parker, J. of the Ontario High Court of Justice again dealing with The Combines Investigation Act (Canada).

The similarity between certain provisions of The Combines Investigation Act and a specific section of the Inquiries Act makes part of this decision highly probative. Parker, J., at p.601 stated:

"Since the statute sets out in detail what must be done with documents and what is to be given to the persons against whom an allegation is made, it is necessary to decide if the Commission has power to act in a manner other than the statute directs. If the Restrictive Trade Practices Commission is a purely administrative body, then its powers are to be found solely in the statute which created it."

Parker, J. concluded at p.605:

"Even though s.19(1) gives the Commission power to review all the evidence and material secured by the Director, there does not appear to be anything in the statute which authorizes the Director or the Chairman to disclose information secured in the course of a private inquiry, or to give confidential documents belonging to one person to other persons opposed in interest, before a report is made to the Minister of Justice or any charges are laid. Following the law I have just referred to, I feel the Court may properly lean in favour of an interpretation that leaves private rights undisturbed."

A decision canvassed in *B.C. Packers* (above referred to) is *Advance Glass & Mirror Co. Ltd. v. Attorney General of Canada and McGregor* (1950) 1 D.L.R. 488. Parker, J. in *B.C. Packers* at p.603 quotes MacKay in *Advance Glass & Mirror* in the following terms:

"MacKay in Advance Glass & Mirror Co. et al. v. A.-G. Can. & McGregor (1950) 1 D.L.R. 488, (1949) O.W.N. 451, 12 C.P.R. 94. In that case certain parties wanted to look at the evidence and all the exhibits and the Commissioner took the position that they were not entitled to them. At pp.491-2 D.L.R., pp.453-4 O.W.N., pp.97-8 C.P.R., Mr. Justice MacKay said this:

'It is conceded that the tribunal is an administrative one. It is not contended that the Crown acted unfairly or partially in the premises. It is not contended that the statute is ultra vires — it is clearly intra vires. Being a statutory authority, even if it were unwise drastic it must be respected by the Courts.

I have examined with care all the cases cited by counsel and have read many others.

Under the statute the procedure adopted by the Commissioner is in my opinion final and not reviewable in legal proceedings . . . It is clear that the applicants received reasonable notice of the charges of misconduct alleged against them. The point in issue is whether or not they were allowed "full opportunity to be heard". In the interpretation of statutes there are fundamental rules, one of which is that the language must be read in its ordinary sense unless that leads to an absurdity. I find myself in difficulty in attempting to interpret the word "heard" in s.13 of the Inquiries Act as synonymous with the word "hearing". I must construe "opportunity to be heard" as meaning an opportunity to be present and to make such statements referable to the charge and notice as the applicants see fit.

There is an other aspect of interpretation: What is the significance of the word "full"? Counsel for the applicants contended that "full opportunity" must include the right to see and examine all the witnesses. It is not for me to express an opinion as to the justice or otherwise of that contention; I am of the opinion that the statute does not warrant so wide an interpretation."

The Supreme Court of Canada in *Canada Fishing Co. v. Smith* (1962) 32 D.L.R. (2d) 641, favourably quoted from *B.C. Packers v. Smith* (above) and Locke J. at p.652 said:

"The disposition to be made of this matter depends, in my opinion, upon the interpretation which should be placed upon the language of s-s.(1)(b) of s.18, in so far as it related to a person against whom an allegation is made by the director. The statement of evidence to be submitted to the Commission must, of necessity, be the evidence and the documents relating to all of the allegations made. But where, as in this case, there are allegations of conduct contrary to the statute against four of the companies, in respect of arrangements said to have been made inter se in relation to the salmon fishery with which Stevens and the other Union officials are not concerned, and allegations of such conduct against Rigby, Stevens, Gordon and Parkin in relation to the trawl fishery with which none of the appellants are concerned, it is

intended that nonetheless all the evidence taken on all the inquiries made and the relevant documents are to be supplied to persons other than those against whom the allegations are made?

The cardinal rule for the construction of Acts of Parliament is that they should be construed according to the intention of the Parliament which passed them. Section 15 of the Interpretation Act, R.S.C. 1952, c. 158, which applies to this Act declares that every Act shall be deemed remedial and shall accordingly receive such fair, large and liberal construction and interpretation as will best ensure the attainment of the object of the Act, according to its true intent, meaning and spirit.

Subsection (1)(b) is to be read together with s-ss.(2) and (4) of s. 18 which makes the purpose of the requirement perfectly clear, that being to enable such person to advance before the Commission, at the hearing to be held, such arguments as he may be advised against the allegations made against him."

He further added at p.654:

"The appellants are, however, in my opinion, entitled to a declaration that upon the true construction of s.18 of The Combines Investigation Act the director, and in this case, the Commission are required to furnish to each person against whom an allegation is made in the statement of evidence a copy of the evidence taken at the instance of the director, only in so far as such evidence relates to the allegations made against such person, and copies of only such of the documents taken from the possession of the appellant companies as are relevant to the allegations made against him. To this extent, I would allow the appeals."

Again I note the similarity between certain provisions of The Combines Investigation Act and section 13 of the Inquiries Act with respect to notice to persons whose conduct may be the subject of adverse comments. In *Seafarers International Union of Canada v. CNR* (1976) 2 F.C. 369, the principle of national justice was discussed by the Federal Court of Canada and I note particularly the passage by Pratte, J. at p.375:

"The purpose of the investigation made by the Commission is not merely to enable it to rule on the validity of the various arguments raised by the objectors in support of their objection; the duty of the Commission is to form an opinion on the effects of the proposed acquisition. If the Commission decides, under section 27(4)(a) to hold a public hearing, that hearing is nothing more than a part of the Commission's investigation. The decision to hold a public hearing does not have the effect of transforming the Commission's investigation into an adversary contest. I fail to see how the decision of the Commission to hold a public hearing could create, in favour of the objectors, rights that they would not otherwise have. The rights of an objector cannot vary according to the decision of the Commission to hold or not to hold a public hearing."

The most recent decision of interest to the issue before me is *Nicholson v. Halton-Norfolk Regional Board of Police Commission* (1979) 1 S.C.R. 311, which deals with the issue of natural justice and administrative tribunals. The Chief Justice of Canada, in dealing with The Police Act, underscored the necessity for a person whose duties are terminated to be given an opportunity to respond. The scope of the decision in that regard has but peripheral application to the request made and the notion that persons should be treated fairly and not arbitrarily is not only one which I endorse but one which, in my opinion, has prevailed throughout this inquiry.

The Inquiries Act, as already set out, is silent as to both access to information and production of documents to interested parties. While section 7 gives wide powers to commissioners and full access, it does not contemplate the power to enlarge upon this access to include third parties. It could be contended primarily that the powers contemplated by section 7 can only be exercised in a limited context for the benefit of the Commission since nothing under Part II even compels the Commission to hold public hearings.

It is only the provisions of section 13 of the Act which provide insight as to the issue of notice and that section does not deal with disclosure. While it could safely be assumed that in the proper exercise of its discretion a commission proceeding under section 13 would provide disclosure, the section is silent on that point and the matter may even be discretionary.

The work of a commission of inquiry is purely administrative and not in any way quasi-judicial. See *Celovsky et al and Newcombe*, Federal Court of Canada, February 12, 1980, per Cattanach, J.

Reid and David on Administrative Law Practice go so far as to contend that the rules of natural justice may not apply to the procedure of such a commission. The authors even advance the suggestion that public hearings are not necessary and that the tribunal is the sole master of its procedure as appears to it to be just and convenient in the circumstances of the case before it. The tribunal may even limit cross-examination of any or all parties. See *St. John v. Fraser* (1935) S.C.R. 441 at 453, where the Supreme Court expressed the view that no such right exists at Common Law. When the request is for the production of documents as in the present application, the law jealously guards the discretion of inquiry tribunals. In *Pergamon Press Ltd.* (1971) 1 Ch. 388 at 400, Lord Denning, M.R. said:

“... . . but the directors of the company want more. They want to see the transcripts of the witnesses who speak adversely of them, and to see any documents which may be used against them. They, or some of them, even claim to cross-examine the witnesses.”

He continued at the same page:

"This sort of thing should be left to the discretion of the inspectors. They must be masters of their own procedure. They should be subject to no rules save this: they must be fair. This being done, they should make their report with courage and frankness, keeping nothing back. The public interest demands it."

Buckley, L.J. said at p.407:

"What disclosure will be necessary for this purpose must depend upon the circumstances of the particular case. It may not, and I think often would not, in an ordinary case involve disclosing the identity of witnesses or the disclosure of transcripts. It certainly would not normally involve offering an opportunity to cross-examine any other witnesses, and, indeed, it seems that inspectors could not compel a witness to submit to cross-examination. Whether it would involve confronting the director or officer concerned with any documentary evidence would depend on the circumstances of the case. Until an inspector has reached a stage at which he thinks that he will, or, at least, may have to report adversely on a director or officer, it will be premature for him to decide what, if anything, he should do to give the director or officer a fair chance of explaining the matter.

The appellants in the present case were, I think, quite unjustified in their attempt to obtain undertakings or assurances from the inspectors about the way in which they would conduct the inquiry at its outset. The right of any of them to any information about the course of the investigation is dependent upon the inspectors being disposed to criticise them in their report, and in this event the nature of the protection to which any of them will be entitled as a matter of fairness will depend upon the nature of the possible adverse comment and of the evidence relating to it which the inspectors have received.

These are matters which I think rest in the discretion of the inspectors, a discretion which they must exercise with due regard for fair treatment of anyone likely to be adversely affected by their report. The inspectors in the present case, in my judgment, have adopted an entirely correct attitude.

I agree that the appeal should be dismissed."

As set out in the first ruling of this Commission, I have tried to conduct as much of the Commission's business as possible in a public form, confident that such openness can only serve to enlighten the Commission as to its mandate. I have allowed full cross-examination of all witnesses. Such an approach, however, ought not to suggest that the parameters of exploration should be without limit. An order for production at large by one party or another would be tantamount to "full discovery" or as paraphrased by counsel for the department "an expedition at large into the affairs of the

department". Furthermore, I am of the view that the failure to particularize some of the requests for access, seriously hampers the effectiveness of the demands.

It is in that light that I now wish to approach the items requested and rule on each. For the purpose of convenience, I have used the numbers allocated by counsel for the unions.

After careful consideration, I am of the view that items 1,2, 3, 5, 6, 7, 8, 9, 11, 12 and 16 have been satisfactorily met by the department and these documents will be available to union counsel in the form in which they have been filed.

Items 4 and 10, in my view, suffer from a lack of particulars and I will not order production of these items for purpose of submissions. If these two items are identified more precisely, future consideration may be given for disclosure in one form or another prior to final arguments. I am still confident that counsel may agree with each other without the necessity of further intervention by the Commission.

It was suggested that until production, documents cannot be identified, but I reject such argument as frivolous. Surely, after several weeks of hearings, these documents have been identified and any contention to the contrary is not entirely serious.

Item 13 — The request for documents pertaining to one Allen Steele and the subsequent Post Office investigation into the conduct of the two investigators gives rise to a number of concerns. First, such investigation is classified as confidential and could not be produced without this Commission's unilateral declassification. A further concern emanates from the fact that union counsel suggested at the beginning of hearings that the Steele issue may possibly be the subject of civil litigation and the production ought not to serve as discovery for civil proceedings. Last but not least of my concerns is the private rights of individuals affected by the existence of such a report. If the rights of individuals are to be protected, how serious is such protection should the Commission allow public disclosure of a confidential report which may adversely affect any persons named therein? Once produced, section 13 of the Inquiries Act could be brought into play and possibly notice served upon the parties affected. Could it not also be suggested that the request to produce, assuming all other arguments are overcome, should be subject to comments by counsel on behalf of the persons named in the report? For these various reasons, I am not of the view that the documents requested under item 13 can or should be produced.

Items 14 & 15 — The relevance of this request and its availability is such that I would ask and direct that the request for items 14 and 15 be complied with immediately.

Item 17 — The request for documents regarding the proposal of peace officer status for Security and Investigation officers is one which involves internal memoranda for purpose of briefing the Postmaster General. Arguments either in favour of or opposing the peace officer status may have been explored. Because these documents involve advice given by public servants to a minister of the Crown, I am of the view that an order of production should not be made since a privilege of the Crown could be asserted, and I do not propose to compel production. I am further of the view that the Deputy Postmaster General, having chosen to appear before this Commission, may have the opportunity to express his views, and counsel for the unions will then have the opportunity to elicit the details sought for purpose of making adequate recommendations and arguments to the Commission on this issue.

Item 18 — The request is far too general and vague for production to be compelled. In the spirit of fairness, however, the Commission would be prepared to request production of any study, if such exists, of the impact of closed circuit television upon the morale of employees. If such study does not exist, counsel for the department may file an affidavit on behalf of the department so indicating and the request will have been satisfied.

Item 19 — I am of the view that production of documentation regarding the dismissal of Mr. Raedler is an unwarranted intrusion upon the private rights of a former employee and cannot be ordered without the express consent of Mr. Raedler. In any event, I am of the view that the issues surrounding the dismissal of Mr. Raedler were fully canvassed in Vancouver and further public discussion of this file is not necessary.

Item 20 — A large amount of material has already been filed with the Commission regarding training or instruction sessions given in the Western Postal Region and these are now available for inspection of counsel for the unions. That demand, in my view, has been met.

Item 21 — The proposed Canada Post Corporation Bill does not suggest any role for members of Security and Investigation Branch and accordingly, the request under this item is not entirely relevant. I am, however, of the view that should a policy have been developed within the department, it should be brought to the attention of the Commission and the absence of

such a policy could be reflected in an affidavit filed with the Commission. If a policy document is filed, the Commission shall examine same to determine whether or not a claim of Crown privilege can be made.

Item 22 — Assuming that there is in existence a definite policy statement, I would suggest that it be produced for examination by this Commission. If there is no such direct policy statement dealing with the CUPW strike of October, 1978, the absence of same could be reflected in an affidavit filed with the Commission. Should a policy statement be filed, the Commission reserves its right to examine it before considering its release, in order to determine whether it is in the interest of the parties involved to compel disclosure, having due regard to Crown privilege.

Item 23 — Any instruction to Security and Investigation personnel dealing with lie detectors has already been alluded to and released through the Information Manual for Postal Inspectors Investigators Manual. I am further of the view that the Commission does not have the power to compel outside police agencies to disclose any policy or instruction to a commission of inquiry struck under Part II of the Act.

Item 24 — If a policy statement exists regarding cooperation with Customs officers, it ought to be delivered to the Commission for its examination; the absence of such a policy statement should also be the subject of an affidavit. The Commission again wishes to underline that if a policy statement exists and is produced, it will not be released without the fullest of consideration and with due regard to its classification.

Item 25 — The report of the Inquiry into Vandalism conducted by Mr. Hubling under the provisions of section 48 of the Post Office Act is a privileged document now in the hands of the minister and the Commission does not see fit to order its release.

Item 26 — Having regard to the classification, or instructions and directives to Security and Investigation personnel as to security clearances to Post Office employees, the issue has already been fully canvassed and accordingly, instructions are already part and parcel of the record. In the spirit of fairness, however, policy statements and directives should be filed with the Commission for its perusal and examination and eventual release, if the Commission sees fit.

In my first ruling, I have alluded to a large number of steps taken by this Commission to give broad access to information and witnesses and that in the absence of any constraints, legislative or otherwise, directing the Commission to do so. I need not reiterate that the above steps were taken strictly

in the concept of fairness and it is only in light of the first ruling that the refusal of the Commission in the present ruling to give broader access and relief with respect to certain items should be viewed.

Dated at Ottawa, this 10th day of October, 1980.

René J. Marin
Commissioner

APPENDIX D

INVENTORY OF FEDERAL STATUTES GRANTING PEACE OFFICER POWERS

1. AERONAUTICS ACT

(R.S.C. 1970, c.A-3; s. 5.1 added 1973-74, c.20, s. 1)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
search	5.1(9)	security officer appointed by Minister of Transport
	5.1(3)	persons, personal belongings
	5.1(5)	baggage, goods, cargo
	5.1(6)	unaccompanied baggage, goods, cargo
Inquiries Act	8	board of inquiry accident, breach of regulations, dangerous incidents in the opinion of the Minister of Transport

2. CANADA AGRICULTURAL PRODUCTS STANDARDS ACT

(R.S.C. 1970, c.A-8)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
search	9(1)(a)	inspector appointed by Minister of Consumer and Corporate Affairs (s.7) agricultural products, other things on reasonable belief, any time, any place
seizure	10(1)	inspector, belief on reasonable grounds of violation agricultural products, other things

detention (goods)	10(2)	until compliance, in opinion of inspector, 90 days, or, if proceedings commenced, until concluded
production	9(1)(b)	as required by the inspector from any person inspection, copy, extract books, shipping bills, documents, etc.

3. ANIMAL DISEASE AND PROTECTION ACT

(R.S.C. 1970, c.A-13; ss.18, 33, 43 added 1974-75-76,
c.86, ss.14, 16, 17 respectively)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	18	inspector or other officer (s.16)
seizure	19(1)	clerk, inspector, officer of fair/market, constable, policeman, person authorized by mayor or reeve or justice of the peace with jurisdiction, appointee of the Minister of Agriculture
	33(3)	infected animal (suspected) exposed or offered for sale; or attempted to be so exposed or offered
	33(1)	chief officer of customs
		vessel transporting animals without certificate of inspector at last port of call in Canada
detention (animals, etc.)	19(2)	mayor, reeve, or person appointed by the Minister
		infected animals and related articles (i.e. pens and feed)
	33(3)	chief officer of customs
		vessel until fine/costs of seizure paid
arrest without warrant	20, 43	inspector or other officer, constable detain person up to 24 hours without order of a justice

4. ANTI-DUMPING ACT

(R.S.C. 1970, c.A-15)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	27(2)	Anti-dumping Tribunal (s.21), a court of record (s.27(1))
search	27(2)	same
production	27(2)	inspection of documents

5. ANTI-INFLATION ACT

(S.C. 1974-75-76, c.75)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	19(1)	person authorized by the Administrator (s.15) may, at all reasonable times, enter any premises or place where any business carried on or where property, books or records kept audit and examine books/records; examine property
search	19(2)	Administrator, on <u>ex parte</u> application to judge; RCMP, other peace officers, or others named belief on reasonable grounds of contravention of Act and/or guidelines, enter and search, if necessary by force, any building, receptacle or place for evidence
seizure	19(1) 19(2)	by Administrator or authorized person, during course of an audit or search any books, documents as evidence
production	26(5)	Anti-Inflation Appeal Tribunal (s.26(1)), a court of record (s.26(5)) production, inspection of all documents, records, etc.
Inquiries Act	13(1)	Anti-Inflation Board

6. ARCTIC WATERS POLLUTION PREVENTION ACT

(R.S.C. 1970, c.2 (1st. Supp.))

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	15(1)(a)	pollution prevention officer appointed by Governor in Council (s.14)

seizure/detention	23(1) (ship, cargo)	any place other than ship, private dwelling place reasonable belief of waste deposited pollution prevention officer with consent of Governor in Council, on reasonable grounds — violation ship and cargo
production	15(1)(c)	pollution prevention officer from anyone found in places mentioned in s.15(1)(a) inspection, copy, extract of books, documents, papers, etc.

7. AUDITOR GENERAL ACT

(S.C. 1976-77, c.34)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
Inquiries Act	13(4)	Auditor General re: any account subject to audit by him

8. BANK ACT

(R.S.C. 1970, c.B-1)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
seizure	82(3), 88(3)	Bank, in event of non-payment of loan, etc. security given can be seized
production	63(7)	auditors of the Bank (s.63(1)) access to books, documents, etc.
	65	Inspector General of Banks (s.64) access to books, documents, etc.
Inquiries Act	65(4)	Inspector General of Banks

9. BANKRUPTCY ACT

(R.S.C. 1970, c.B-3)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
search	5(7)	Superintendent of Bankruptcy, person authorized by him under warrant to search for private records, property

	6(2)	Superintendent of Bankruptcy, with leave of court (peace officers may be called to accompany him) to investigate and obtain evidence re: offence under s.6(1)
seizure	159(1) 5(9)(b)	court may direct searches by warrant Superintendent of Bankruptcy, in order to protect estate left without trustee by death
	138(1)	all property, books, records re: the estate seizure incidental to an arrest of a bankrupt
		any books, papers, documents in his possession
arrest with warrant	159(1) 138	court may direct seizure by warrant arrest of bankrupt by court via warrant under five circumstances (i.e. contempt, absconding)
production	6(3)	Superintendent of Bankruptcy, in course of examination pursuant to this section books, documents, etc. in examinee's possession/control relating to the bankrupt
	18(1)	re: trustee substitution transfer of property, books, documents, etc.
	133(1)	trustee, upon ordinary resolution passed by creditors books, documents, correspondence in possession/control of bankrupt or person with knowledge of his affairs

10. QUEBEC SAVINGS BANKS ACT (R.S.C. 1970, c.B-4)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
production	55(7)	auditors of the bank (s.55(1) appointed) access to books, documents, vouchers, etc. of the bank

general	56(1)	Inspector General of Banks can exercise powers given him under the <u>Bank Act</u> (s.64, 65, 65(4) of <u>Bank Act</u> — see Bank Act, No. 8)
Inquiries Act	56(3)	Inspector General of Banks; his delegate

11. BRIDGES ACT

(R.S.C. 1970, c.B-10)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	9	authorized engineer from Department of Public Works (s.5(1)) at all reasonable times
production	10	authorized engineer from Department of Public Works contracts, plans, specifications, drawings, documents re: construction, repair, state of repair of bridge
shut-down	12	bridge can be closed by authorized engineer from Department of Public Works

12. BROADCASTING ACT

(R.S.C. 1970, c.B-11; s.2 amended and ss.5-14 repealed 1974-75-76, c.49, s.18)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
general	19(7)	Canadian Radio-television and Telecommunications Commission entry/inspection of property production/inspection of documents powers of superior court of record

13. CANADA DEPOSIT INSURANCE CORPORATION ACT (R.S.C. 1970, c.C-3)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
Inquiries Act	12(2)	directors of the Corporation

14. CANADA PENSION PLAN

(R.S.C. 1970, c.C-5)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	26(1)	person authorized in writing by Minister of National Revenue at any reasonable time, any premises or place where records/books of account are/should be kept in order to audit/examine documents
seizure	26(1)(c)	authorized person, during course of audit, believing offence under this Act committed books, records, writings, documents
detention (documents, etc.)	26(1)(c)	of above materials until required in court proceedings

15. CANADA WATER ACT

(R.S.C. 1970, c.5 (1st Supp))

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	24(1)	inspector (s.23) appointed by Minister of the Environment, chap. 14 (2nd Supplement) s.30 at any reasonable time, any place other than a private dwelling place on reasonable belief that process may result or has resulted in waste
	24(1)(c)	examination of waste, cleaning agent, water conditioner
seizure	20(1)	inspector at any reasonable time cleaning agent/water conditioner that he reasonably believes is in violation of s.18
production	24(1)(d)	inspector may inspect, copy, extract books, documents, papers

16. CANADIAN DAIRY COMMISSION ACT

(R.S.C. 1970, c.C-7)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	19(1)	inspector appointed by Canadian Dairy Commission, s.18 at any reasonable time, any place in which he reasonably believes that there is any regulated product
production	19(1)	inspector may require any person found in premises described above to produce books, records, documents re: product inspect, copy, extract
Inquiries Act	9(2)	Canadian Dairy Commission, for investigations re: production, processing, marketing of any dairy product (including costs of such activities)

17. CANADIAN WHEAT BOARD ACT

(R.S.C. 1970, c.C-12; s.35.18 added 1976-77, c.56, s.2)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	35.18(2)	inspector appointed by Minister of Transport at any reasonable time, any place other than a private dwelling place in which he reasonably believes that there is grain subject to a marketing plan
production	35.18(2)	inspector may examine books, records, documents
Inquiries Act	22	Canadian Wheat Board upon direction of the Governor in Council

18. CLEAN AIR ACT

(S.C. 1970-71-72, c.47)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	28(1)	inspector (s.27) appointed by the Minister of the Environment (Stat. Inst. 78-87)

	28(1)(a)	place forming part of federal work, undertaking or business other than private dwelling where he reasonably believes that there is/has been activity resulting in emission of air contaminant; examine materials used
	28(1)(c)	any place, other than private dwelling in which he reasonably believes that there is fuel in contravention of s.22; examine fuel
seizure	24(1)	inspector fuel which he reasonably believes in contravention of s.22
detention (goods)	24(2)	up to 60 days, unless it has been forfeited, proceedings have commenced or notice of application for order extending time period has been served
production	28(2)	inspector may require any person found in place mentioned in s.28(1) to produce books, documents to inspect, copy, extract
Inquiries Act	18(3)	person appointed by Minister of the Environment to direct inquiry pursuant to s.18(2)

19. COASTAL FISHERIES PROTECTION ACT
(R.S.C. 1970, c.C-21)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	5(a)	protection officer (fishery officer within meaning of Fisheries Act; officer of RCMP; person authorized by the Governor in Council) on board any fishing vessel found within Canadian fisheries waters
search	5(b)	protection officer can bring vessel into port to search cargo; examine master and crew upon oath re: cargo and voyage
seizure	6(1)	protection officer suspects on reasonable grounds offence against the Act has been committed

		any fishing vessel involved; any goods aboard; or both
detention	6(3)	vessel, goods in custody of protection officer or other person as the Minister of Fisheries and Oceans (S.C. 1978-79, chap. 13, s.33) may direct
	6(6)	three months, unless proceedings commenced or on security by bond
arrest without warrant	6(2)	protection officer
		any person whom he reasonably suspects has committed offence against the Act

20. COMBINES INVESTIGATION ACT (R.S.C. 1970, c.C-23)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	10(1), 10(3)	Director of Investigation and Research appointed by Governor in Council (s.5) upon production of certificate from Restrictive Trade Practices Commission (s.16), representative of Director any premises where the Director believes there may be evidence relevant to an inquiry
seizure	10(1)	Director of Investigation and Research or his representative any book, paper, records, documents for examination
detention (documents, etc.)	10(4)	up to 40 days, unless longer period directed by Restrictive Trade Practices Commission
production	17	member of Restrictive Trade Practices Commission may require any person resident or present in Canada to produce documents
Inquiries Act	21	Restrictive Trade Practices Commission or any member thereof

21. CONSUMER PACKAGING AND LABELLING ACT
 (S.C. 1970-71-72, c.41)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry, search	13(1)	inspector in accordance with Department of Consumer and Corporate Affairs Act (s.6(3)) at any reasonable time, any premises of a dealer or other place where inspector reasonably believes that there is a pre-packaged product owned by a dealer
seizure	15(1)	pre-packaged products inspector believes on reasonable grounds violation of Act or regulations has occurred
		any product or labelling, packaging, advertising material related to the violation; unless in his opinion seizure not necessary in the public interest
detention (product, etc.)	15(4)	until compliance, in inspector's opinion until not necessary in the public interest to continue to detain
		60 days, unless forfeited, proceedings commenced, or notice of application for order to extend time period has been served
production	13(1)(c)	inspector may examine, copy, extract books, records, shipping bills, documents, etc. that he reasonably believes contain information relevant to enforcement of this Act

22. DOMINION CONTROVERTED ELECTION ACT
 (R.S.C. 1970, c.C-28)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
detention	43(4)	sheriff, officer of the court, constable under warrant from trial judge reluctant witness
	43(5)	until his presence as witness required, or until he is released on recognizance by trial judge

23. CO-OPERATIVE CREDIT ASSOCIATIONS
(R.S.C. 1970, c.C-29)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
production	56(2)	Superintendent of Insurance may inspect books of the association
	56(3)	Superintendent of Insurance can examine under oath any officer, servants, clerks of the association
	56(4)	Superintendent of Insurance may appoint an auditor (qualifications of auditor in accordance with <u>Bank Act</u> , s.63(1)) to audit books, accounts, securities of the association

24. COPYRIGHT ACT
(R.S.C. 1970, c.C-30)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
seizure	Schedule II	Revised Berne Convention
	Sch. II, art. 13	musical works imported without authority of interested parties into country were they are unlawful are liable to seizure in that country
	Sch. II, art. 16	pirated works may be seized in country where original work enjoys legal protection
	Schedule III	The Rome Copyright Convention, 1928
	Sch. III, art. 13 and 16	same as above, see Sch. II, articles 13 and 16

25. CANADA CORPORATIONS ACT
(R.S.C. 1970, c.C-32; s.114 amended, c.10 (1st Supp), s.12; s.114.2 added, c.10 (1st Supp), s.12)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry, search	114.2(2)	inspector, authorized in writing by the Minister of Consumer and Corporate Affairs with the approval of member of the Restrictive Trade Practices Commission

		premises of company under inspection pursuant to s.114.2(1)
114(6)		inspector, appointed by the Restrictive Trade Practices Commission (s.114(2)) or his authorized representative
		upon presentation of certificate from member of Restrictive Trade Practices Commission, any place which the inspector reasonably believes contains evidence re: investigated matters
production	114(9)	inspector or his authorized representative, upon written authorization by member of the Restrictive Trade Practices Commission, may require directors, officers, managers, employees, agents of company (or affiliated company) to produce all documents and records in custody/control re: affairs or management of company being investigated
Inquiries Act	114(30)	Restrictive Trade Practices Commission or member thereof for purposes of s.114

26. CANADA BUSINESS CORPORATIONS ACT (S.C. 1974-75-76, c.33)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	223(1)(d)	inspector, appointed by court (s.223(1)(b)) any premises in which the court is satisfied there might be relevant information inspector may examine anything and copy any document found therein
production	223(1)(e)	court may order any person to produce documents or records to inspector
	223(1)(f)	court may authorize inspector to conduct hearings and administer oaths and examine persons under oath

27. CORRUPT PRACTICES INQUIRIES ACT

(R.S.C. 1970, c.C-33)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
production	15	commissioners, appointed pursuant to s.3 commissioners may require any person to answer questions and to produce books, papers, deeds and writings in his custody/control upon summons to attend inquiry

28. CRIMINAL CODE

(R.S.C. 1970, c.C-34; Martin's Annual Criminal Code,
1979 edition)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
search, without warrant	99	peace officer believes on reasonable grounds that offence is being or has been committed against any provisions re: prohibited/restricted weapons, firearms or ammunition
		may search person, vehicle, place or premises other than private dwelling house re: prohibited/restricted weapons, firearms, ammunition
search, with warrant	101(1)	person named in warrant
		search for firearm, other offensive weapon, ammunition or explosive substance in possession/custody/ control of person where a magistrate is satisfied that there are reasonable grounds to believe that it is not desirable in the interests of the safety of that person or other persons to have such articles
search, without warrant	101(2)	peace officer
		search same as above (s.101(1)) where a peace officer is satisfied that there are reasonable grounds to believe that it is not desirable in the interests of the safety of that person or other persons to have such articles

search, with warrant	181(1)	peace officer, by day or night, any place
		search for evidence of offence being committed under ss.185, 186, 187, 189, 190 or 193
search, with warrant	182(2)	peace officer or other person named in warrant by day or night search for female persons in bawdy-house
search, without warrant	299(3)	peace officer peace officer suspects, on reasonable grounds any place and any time search for timber unlawfully detained
search, with warrant	353	person named in warrant search persons/places mentioned in the information for unlawfully held precious metals
search, with warrant	443(1)	person named in warrant or peace officer judge may issue warrant authorizing person named or peace officer to search building, receptacle or place for: a) anything upon or in respect of which any offence against this Act has been or is suspected to have been committed, b) anything that there is reasonable grounds to believe will afford evidence with respect to the commission of an offence against this Act, or c) anything that there is reasonable grounds to believe is intended to be used for the purpose of committing any offence against the person for which a person may be arrested without warrant
seizure, without warrant	99	peace officer restricted/prohibited weapons, firearms, ammunition

		without warrant, incidental to search (see search without warrant, s.99)
seizure, without warrant	100	peace officer
		restricted weapon from person without registration certificate or permit and from person under age 16 without permit
		prohibited weapon from any person in possession of same
seizure, with warrant	101(1)	person named in warrant
		firearm, other offensive weapon, ammunition, explosive substance
		incidental to search (see search with warrant, s.101(1))
seizure, without warrant	101(2)	peace officer
		firearm, other offensive weapon, ammunition, explosive substance
		incidental to search (see search without warrant, s.101(2))
seizure, with warrant	160	person named in warrant
		judge, via warrant, can authorize seizure of obscene publication or crime comic
seizure, with warrant	181(1)	peace officer
		anything as evidence of offence under ss.185, 186, 187, 190 or 193
seizure without warrant/with warrant	181(2)	peace officer
		evidence of keeping a common gaming house
seizure, with warrant	281.3(1)	person named in warrant
		seizure of hate propaganda
seizure, with warrant	353(2)	person named in warrant
		seizure of unlawfully held precious metals

seizure, without warrant	403(2)	peace officer, finding cocks in a cock-pit or on premises where a cock-pit is located
seizure, without warrant	420(2)	may seize counterfeit money, counterfeit tokens of value or machines to make them
seizure, with warrant	443(1)	person named in warrant or peace officer
		incidental to search (see search with warrant, s.443(1)) — seize such things described in s.443(1), carry before justice who issued warrant
seizure, with warrant	443(4)	re: endorsement on search warrant
seizure, with warrant	445	any person executing warrant under s.443
seizure, with warrant	447(1)	person executing warrant under s.443
		seizure of explosives
detention, without warrant	30	everyone who witnesses a breach of the peace
		may detain any person committing, joining in or renewing the breach of the peace in order to deliver him into custody of peace officer
detention, without warrant	420(2)	peace officer
		detention of counterfeit money, counterfeit tokens of value, equipment to make same
detention without warrant	458(4)	judge may order detention of accused who is on interim release
detention, on order of lieutenant governor of a province	545(1)	detention of insane persons on order of lieutenant governor of a province
detention, on order of court	688	court may order indeterminate detention of dangerous offender
arrest, without warrant	31(1)	peace officer witnessing breach of the peace and any person lawfully assisting him

		any person that peace officer or person assisting him finds committing breach of the peace or who he believes on reasonable grounds is about to join in/renew breach of peace
arrest, without warrant	33(1)	peace officer and any person lawfully assisting him
		arrest of persons not complying with proclamation to disperse pursuant to s.68
arrest, without warrant/with warrant	181(2)	peace officer
		any person that he finds keeping a common gaming house
arrest, without warrant	191(2)	person in charge of vehicle, aircraft or vessel and any person authorized by him where he has good reason to believe may arrest, without warrant, person who has committed, attempted to commit, is committing or is attempting to commit an offence under s.191(1) (gambling in public conveyances)
arrest, without warrant	449	by any person
		anyone may arrest, without warrant, a person whom he finds committing a criminal offence OR a person who, on reasonable and probable grounds, he believes has committed a criminal offence AND is escaping from and freshly pursued by persons who have lawful authority to arrest
		anyone who is the owner or in lawful possession of property OR a person authorized by the owner or by a person in lawful possession of property may arrest, without warrant, a person whom he finds committing a criminal offence on or in relation to that property
arrest, without warrant	450	peace officer

		may arrest, without warrant, a person who has committed an indictable offence or who, on reasonable and probable grounds, he believes has committed or is about to commit an indictable offence
		may arrest a person whom he finds committing a criminal offence
		may arrest a person for whose arrest he has reasonable and probable grounds to believe that a warrant is in force within territorial jurisdiction in which person found
arrest, without warrant	458(2)	peace officer
		may arrest person who, on reasonable and probable grounds, he believes has violated or is about to violate summons, appearance notice, promise to appear, undertaking or recognizance given to/entered into by him
		may arrest person who, on reasonable and probable grounds, he believes has committed an indictable offence after summons, appearance notice, promise to appear, undertaking or recognizance given to/entered into by him
arrest, without warrant	459(6)	peace officer
		similar to s.458(2)
arrest, without warrant	545(4)	peace officer
		may arrest conditionally discharged insane person who, on reasonable and probable grounds, he believes has violated any prescribed condition
arrest, with warrant	181(1)	peace officer
		all persons found in or at place specified in warrant
arrest, with	450(2)	peace officer

warrant		<u>must have warrant for:</u> a) indictable offence mentioned in s.483 b) hybrid offences c) summary conviction offences <u>unless</u> public interest not satisfied
arrest, with warrant	453.4	person named in warrant
		judge may issue warrant where accused fails to appear
arrest, with warrant	455.3(1) (b)	person named in warrant
		judge may issue warrant to compel attendance of accused to answer charge of an offence
arrest, with warrant	455.6	person named in warrant
		judge may issue warrant where accused fails to appear for purposes of the <u>Identification of Criminals Act</u>
arrest, with warrant	458(1)	person named in warrant
		judge may issue warrant for arrest of accused on interim release where he has reasonable and probable grounds to believe accused has violated or is about to violate any summons, appearance notice, recognizance, promise to appear, undertaking given to/entered into by him OR has committed an indictable offence after any summons, appearance notice, promise to appear, recognizance, undertaking given to/entered into by him
arrest, with warrant	507.1	person named in warrant
		judge may issue warrant to compel accused to attend to answer an indictment
arrest, with warrant	526	person named in warrant
		bench warrant

arrest, with warrant	632(1)	peace officer
arrest, with warrant	633(1), 633(2)	warrant for absconding witness person named in warrant
arrest, with warrant	735(2)	warrant when witness does not attend person named in warrant
Inquiries Act	547(7)	summary conviction court can issue warrant for arrest of person represented by counsel but who himself is absent
		chairman of board of review, appointed by lieutenant governor, re: review of case of every person in custody pursuant to ss.545, 546

**29. CULTURAL PROPERTY EXPORT AND IMPORT ACT
(S.C. 1974-75-76, c.50)**

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
general	45	all officers, as defined in the <u>Customs</u> <u>Act</u> , s.2(1), have all powers they have under the <u>Customs Act</u> as such powers pertain to the export/import of goods to which this Act applies

**30. CUSTOMS ACT
(R.S.C. 1970, c.C-40)**

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
definitions	2(1)	“officer” means a person employed in the administration or enforcement of this Act and includes any member of the RCMP
	5(2)	“collector” means the collector of customs at the port or place intended, or any person lawfully deputed, appointed or authorized to do the duty of collector thereat
	5(2)	“appraiser” deemed an officer of customs (see s.2(1))

	132(1)	every officer and person who is employed under the authority of any Act relating to the collection of the revenue, or under the direction of any officer, shall be deemed and taken to be duly employed for the prevention of smuggling and for the enforcement of this Act in every respect
*search/detention	133(1)	general powers of search and detention
*seizure	133(2)	general powers of seizure
*entry	134, 135, 136	general powers of entry
	139	powers under writs of assistance
	140	power to call in aid
*arrest, without warrant	142	power to arrest without warrant of anyone committing or suspected to have committed an indictable offence under this Act or an indictable offence under the <u>Criminal Code</u> arising out of or connected with the administration of this Act
*search of person	143, 144	powers regarding search of the person
search	133(1)	<p>*for persons empowered, see "definitions" above</p> <p>officers (see "definitions" above) and persons (s.132(1) and including members of the RCMP), sheriff, justice of the peace, other persons authorized by any collector of customs or justice of the peace</p> <p>upon information on reasonable grounds of suspicion</p> <p>smuggled goods or goods in violation of this Act in any vessel or vehicle of any description whatsoever</p>
search	134(1)	<p>any officer, after oath before justice of the peace that he has reasonable cause to suspect there are goods liable to forfeiture under this Act</p> <p>any building, yard, other place whether open or enclosed</p> <p>between sunrise and sunset</p>

	134(3)	circumstances precluding requirements of oath in s.134(1)
	135	collector, officer, after oath before justice of the peace of reasonable belief
		part of building on boundary line between Canada and foreign country that is within the limits of Canada
	139	officer or person, under writ of assistance, with concurrence of Governor in Council
		at any time
		any building or other place in jurisdiction of court issuing the writ
		for goods he reasonably believes are liable to forfeiture under this Act
	141(9)	any officer
		at any time
		any vessel
		at any place in Canadian waters or in Canadian customs water subject to s.141(1)
		the vessel, any part thereof, any person, trunk, package or cargo on board
	143	any officer or person authorized by him, on reasonable suspicion
		may search any person on board any vessel within any port in Canada or on/in any vehicle entering Canada, who comes into Canada from foreign country
		goods subject to entry at customs or prohibited goods secreted about his person
seizure of goods	see list of sections under Details	by officer, other persons (s.132(1)): ss.58(2), 87, 105, 133(2), 141(10), 173, 174, 176, 179, 180, 182, 183, 185, 186, 187, 188, 189, 190, 192, 195, 196, 200, 204, 205, 208, 209, 210, 211, 212, 213, 217, 218(2), 219, 222, 226, 229, 235(2), 237, 244 by collector or other officer: ss.106, 198, 199

		by officer, any person under writ of assistance: s.139
		by police or peace officer: s.156
		by anyone, when called in aid: s.140
detention of goods, vessels, etc.	22(2)	collector
		goods of which export/import prohibited; goods controlled/regulated under any Act of Parliament
	106(2)	collector or other proper officer
		goods claimed to be exempt from duty not answering to description of exempt goods in any Act relating to duties of customs
	133(1)	general powers of detention conferred upon officers/persons mentioned in s.132(1), sheriff, justice of the peace or other person authorized by collector or justice of the peace
152 to 159		seized property, disposition of same
156		police or peace officer
		goods suspected of being stolen
173		officer, other persons (s.132(1))
		vessel entering place other than post of entry may be detained — until fine paid
200		officer, other persons (s.132(1))
		vessel on which goods found concealed — until fine paid
240		collector or other proper officer
		vessel may be detained until charges of posting watchman paid
arrest, with warrant	256	person named in warrant
		judge may issue warrant for arrest of defendant in a suit for enforcement of any penalty or forfeiture when it appears defendant will abscond from province

production	100	collector documents re: goods on consignment or goods sold prior to arrival
Inquiries Act	124	person designated by Minister of National Revenue to conduct inquiry/investigation relating to the customs

31. CANADA DAIRY PRODUCTS ACT
(R.S.C. 1970, c.D-1)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	7(1)	inspector, appointed by Minister of Consumer and Corporate Affairs (s.6) any time, a place where he reasonably believes that there are dairy products or other things to which this Act applies
seizure	7(4)	inspector believing on reasonable grounds that Act violated may seize dairy products and other things in relation to violation
detention of goods	7(5)	of things seized — until compliance in inspector's opinion; or 90 days; unless before such time proceedings are commenced

**32. DIPLOMATIC AND CONSULAR PRIVILEGES AND
IMMUNITIES ACT**
(S.C. 1976-77, c.31)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
arrest/detention	Schedule II, article 41	Vienna Convention on Consular Relations consular officer liable to arrest or detention only in the case of a grave crime pursuant to a decision by the competent judicial authority

33. CANADA ELECTIONS ACT

(R.S.C. 1970, c. 14 (1st Supp); s. 13.3 added, S.C. 1973-74, c.51, s.4; 5.13(3)(1) amended, S.C. 1977-78, c.3, s.11)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
arrest/detention	Schedule A, Rule 62 of s.18	revising officer, while sitting as such, is a conservator of the peace with all powers of a justice of the peace may appoint constable(s) for arrest and detention of persons guilty of personation of others, attempting to personate others, impede proceedings or creating disturbance
	49	returning officer, during election, and deputy returning officers, while polls open, are conservators of the peace with all powers of justice of the peace
	49(1)(a)	may require assistance of justices of the peace, constables, other persons
	49(1)(b)	arrest or cause by verbal order to be arrested and place in a constable's custody any person disturbing the peace and good order at the election
	49(1)(c)	cause arrested person to be imprisoned until no later than close of poll
detention	49(3)	detention of alleged personator by deputy returning officer until written information drawn up
warrant of arrest	49(4)	deputy returning officer may issue warrant upon receiving an information
detention	49(5)	warrant in s.49(4) is sufficient authority for any peace officer, as defined by <u>Criminal Code</u> , s.2, to detain person until he is brought before magistrate
	49(7)	poll clerk has authority of constable in personation cases
production	13.3(6)	auditor of registered party (s.13.3(1), amended 1977-78, c.3, s.11) has right of access to all records, documents, books, accounts, vouchers of the party in order to make report pursuant to s.13.3(4)

	86	court may order Chief Electoral Officer to produce original election documents for trial of any suit/prosecution under this Act
Inquiries Act	70(5)	Chief Electoral Officer or any person nominated by him to conduct inquiry of offence under this Act by an election officer

**34. ELECTORAL BOUNDARIES READJUSTMENT ACT
(R.S.C. 1970, c.E-2)**

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
Inquiries Act	14	electoral boundaries commission

**35. ELECTRICITY INSPECTION ACT
(R.S.C. 1970, c.E-4)**

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/search	16	inspector (s.5(2)) may, at all reasonable times, enter and perform duties re: reading meters any premises where electricity is generated/distributed/ used

**36. EMERGENCY GOLD MINING ASSISTANCE ACT
(R.S.C. 1970, c.E-5)**

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/search	6(a)	person authorized by the Minister of Energy, Mines and Resources at any reasonable time, the mine in question and connected works and premises
production	6(a), 6(b)	authorized person may require person in control of corporation (s.5(4)) to produce books and records re: production of gold and costs of production

37. ENVIRONMENTAL CONTAMINANTS ACT

(S.C. 1974-75-76, c.72)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/search	10	inspector appointed by Minister of the Environment (s.9) at any reasonable time, any place he reasonably believes contains substance in relation to which Act has been contravened
seizure	11	inspector believing on reasonable grounds Act has been contravened substance by which contravention occurs, if seizure necessary in the public interest
detention (of seized substance)	11	detention of seized substance, until, in the opinion of the inspector or the Minister, it is not necessary in the public interest to detain; 60 days, unless forfeited or unless notice of application for order extending time duly served
production	10	inspector may require owner/person in charge of place entered to produce books, records, shipping bills, etc. in order to inspect/copy/extract
Inquiries Act	6(3)	Environmental Contaminants Board of Review established by Minister of the Environment and Minister of National Health and Welfare (s.6(1))

38. CANADA EVIDENCE ACT

(R.S.C. 1970, c.E-10)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
production	43	court, judge can compel production of documents from anyone examination of witnesses under oath

39. EXCISE ACT

(R.S.C. 1970, c.E-12; s. 162 amended, R.S.C. 1970, c. 15 (1st Supp), s.26)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
definitions	2	“collector” means every officer of

		customs and excise appointed to collect imposed duties
		“inspector” means every inspector of excise appointed/authorized to perform duties of inspection
		“officer” means every officer of excise employed/appointed for survey of manufactures/operations/premises subject to excise; every person employed for administration/enforcement of this Act including members of the RCMP
definitions	64(1)	Minister of National Revenue, person acting as Minister, every superior officer of excise have all powers/rights conferred by this Act on collector or other officer
	64(2)	Minister can delegate to superior officer of excise
power to examine	66(2)	any superior officer of excise, collector, chief/divisional chief officer of the preventive service, other officer designated by Minister may examine persons on oath during inquiry/investigation
power to issue subpoena/summons — produce documents	66(3)	for purposes of s.66(2), such persons may subpoena/summons any person and compel production of any documents in that person’s possession/control
entry/search/seizure/arrest/detention	76	powers of officers under writs of assistance (see also ss.78, 79)
entry/search/seizure/arrest/detention	77	justices of the peace, mayors, bailiffs, persons serving under Her Majesty by commission/warrant/otherwise; persons who aid and assist
entry	70(a)	every officer and assistants at all times
		any building/place used for trade/business subject to excise or where machinery/utensils used to manufacture products subject to excise

entry	70(b)	every officer and assistants between 6:00 a.m. and 10:00 p.m. premises of any dealer wherein any goods subject to excise are stored/kept/sold
entry	71	forcible entry; if during the night must be in presence of constable or peace officer
search	72	any justice of the peace can issue search warrant to collector/other officer/person authorized by collector
search	70(c), (d)	every officer and assistants
seizure	70(g)	search of premises under s.70(a) and (b) officer, upon instruction by collector or superior officer may take sample(s) of goods subject to excise from premises under s.70(a) and (b)
arrest, without warrant	73	any officer or person with powers of an officer of excise may arrest without warrant anyone found committing an indictable offence under this Act or an indictable offence under the <u>Criminal Code</u> arising out of or connected with the administration of this Act
seizure	see list of sections under Details	by any officer of excise of may seize under ss.86, 88, 90, 91, 94, 97, 98, 101, 102, 103, 158(2), 161, 162, 163(3), 178, 179(2), 231(2), 232, 233, 235, 237, 239(2), 241(2), 242(2), 246(2), 261
seizure	33	collector or inspector may seize books/documents/ accounts — incidental to seizure of goods in violation of this Act
detention	see list of sections under Details	by any officer of excise

		may detain goods under ss.69, 90, 94, 101, 102, 161, 163
detention	156	any officer, constable, peace officer with authority from any superior
		may stop and detain any person/vehicle carrying packages supposed by him to contain spirits
production	33	collector or inspector
		may require person licensed to conduct business subject to excise to produce books/papers/accounts kept under requirements of this Act

40. EXCISE TAX ACT

(R.S.C. 1970, c.E-13; s.57(1) amended S.C. 1974-75-76,
c.62, s.7)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
seizure	57(4)	officer of Department of National Revenue or person authorized by the Minister of National Revenue
		any records/books kept pursuant to s.57(1) proceedings
detention	57(4)	of records/books until produced in court proceedings
production	57(3)	officers of Department of National Revenue or person authorized by the Minister
		may compel, from any person required to keep records/books pursuant to s.57(1), the production of those records/books
Inquiries Act	61	person designated by Minister to conduct inquiry/investigation

41. EXPLOSIVES ACT

(R.S.C. 1970, c.E-15; ss.57(1)-(3) and 22 amended S.C.
1974-75-76, c.60, ss.7 and 9 respectively)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/search	15(1)(a), (b)	inspector, on reasonable belief

		explosive being manufactured, stored, conveyed
		at any time
		any factory, magazine, vehicle, or other place
15(4)		inspector, on belief that explosives, ingredients to manufacture explosives are contained therein,
		may open packages, store of materials
seizure	15(1)(c)	inspector has power to take samples
	15(5)	inspector may seize any explosive he reasonably believes is unauthorized or related to any offence under this Act
detention	15(6)	of seized explosives pursuant to s.15(5) 90 days, unless proceedings commenced in which case until conclusion of proceedings
arrest, without warrant	22(2)	any peace officer
		any person he finds committing or on reasonable grounds suspects of having committed an offence against this Act
production	15(1)(d)	inspector may require operator/employee (s.15(3)) at place to produce records, shipping bills, etc. which he believes on reasonable grounds contain any information re: enforcement of this Act in order to examine, copy, extract
Inquiries Act	16(2)	person authorized by Minister of Energy, Mines and Resources to conduct inquiry re: accidental explosion/accident caused by an explosive

42. EXPORT AND IMPORT PERMITS ACT
(R.S.C. 1970, c.E-17)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
general	25	all officers, as defined in the <u>Customs Act</u> ,

have, with respect to any goods to which this Act applies, all powers they have under Customs Act re:
importation/exportation of goods
regulations under Customs Act re:
search/detention/ seizure/production
of document apply *mutatis mutandis*

43. EXTRADITION ACT (R.S.C. 1970, c.E-21)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
arrest, with warrant	10	judge may issue warrant for arrest of fugitive or foreign warrant of arrest (extradition under treaty)
	37	extradition irrespective of treaty
production	31(2)	justice of the peace or authorized person (s.31(1))
		may require from any person or witness production of writings/documents in power/possession of that person/witness re: charge of extradition crime

44. FARM PRODUCTS MARKETING AGENCIES ACT (S.C. 1970-71-72, c.65)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/search	35(1)	inspector appointed by Minister of Agriculture at any reasonable time, enter any place other than a private dwelling place in which he reasonably believes there is a regulated product
production	35(1)	inspector may require from owner/person in charge to produce any books, records, other documents that he reasonably believes contain information re: the regulated product in order to examine, copy, extract
Inquiries Act	8(5)	National Farm Products Marketing Council appointed by Governor in Council (s.3)

45. FEEDS ACT

(R.S.C. 1970, c.F-7)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/search	7(1)(a)	inspector appointed by Minister of Agriculture (s.6) at any reasonable time, any place in which he reasonably believes there is any feed to which this Act applies inspector may open any package found therein that he has reason to believe contains such feed and examine/take samples
seizure	8(1)	inspector believing on reasonable grounds violation of Act
detention	8(2)	articles re: violation committed of seized articles until compliance in inspector's opinion, 6 months unless proceedings commenced
production	7(1)(b)	inspector may require any person to produce books, shipping bills, documents containing mixing instructions or re: administration of this Act, and may inspect, copy, extract

46. FERTILIZERS ACT

(R.S.C. 1970, c.F-9)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/search	6(1)	inspector appointed by Minister of Agriculture (s.5) at any reasonable time, any place in which he reasonably believes there is any article to which this Act applies inspector may open any package found therein that he has reason to believe contains such articles and examine/take samples

seizure	7(1)	inspector believing on reasonable grounds violation of Act
detention	7(2)	articles: re: violation committed of seized articles until compliance in inspector's opinion, 6 months, unless proceedings commenced

47. FINANCIAL ADMINISTRATION ACT
(R.S.C. 1970, c.F-10)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
production	5(6)	Treasury Board from any public officer or agent of Her Majesty any account, return, statement, document, report, or information that the Board considers necessary for performance of its duties

48. FISH INSPECTION ACT
(R.S.C. 1970, c.F-12)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/search	4(1)(a)	inspector appointed by Minister of Fisheries and Oceans or by Minister of Consumer and Corporate Affairs (s.17) at any time at any place, premises, steamship/vessel/boat, railway car/truck/carriage/car/aircraft, or other vehicle used for carriage or storage of fish; may open any container
seizure	7(1)	inspector believing on reasonable grounds violation of Part I all fish and containers re: the violation
detention	7(2)	fish, containers seized, up to 2 months unless proceedings commenced

	8(2)	of person arrested under s.8(1), up to 24 hours without an order from a justice of the peace
arrest, without warrant	8(1)	inspector or constable
		any person found committing offence under Part I
production	4(1)(b)	inspector may require the production of books, shipping bills, etc., in order to inspect, copy, extract

49. FRESHWATER FISH MARKETING ACT
(R.S.C. 1970, c.F-13)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/search	27(1)(a), (b)	inspector appointed by Governor in Council (s.26) at any reasonable time; any place/premises he reasonably believes is being used to store/pack/process/prepare fish for market; any vehicle/trailer/vessel/railway car/aircraft he reasonably believes is being used to ship/convey fish to market may open any container/examine anything found therein and take sample
seizure	28(1)	inspector believing on reasonable grounds violation of Part III fish re: the violation
detention	28(2)	inspector can detain fish seized; until compliance in inspector's opinion, 90 days unless proceedings commenced
production	27(1)(c)	inspector can require any person to produce books, shipping bills, etc. re: administration of Part III in order to inspect, copy, extract

50. FISHERIES ACT

(R.S.C. 1970, c.F-14; s.35 amended S.C. 1976-77, c.35, s.12)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
general	5(3)	fishery guardian, appointed by Minister has powers of police constable for the purposes of Fisheries Act and regulations pursuant to Act
search	35	fishery officer (s.5(1)), designated by Governor in Council (s.5(4)) where he believes on reasonable and probable grounds that there are concealed fish in contravention of this Act therein may search/break open and search any building, vehicle, vessel, or place other than a permanent dwelling place
seizure	58(1)	fishery officer fishing vessel, vehicle, goods, equipment, fish; used in connection with an offence against this Act or regulations
detention	58(2)	things seized under s.58(1) to be detained in custody of fishery officer making seizure or such person as Minister of Fisheries and Oceans directs
arrest, without warrant	36	fishery officer, fishery guardian (s.5(3)), peace officer any person whom on reasonable and probable grounds he believes to have committed an offence against this Act or regulations or whom he finds committing or preparing to commit an offence against this Act or regulations

51. NORTH PACIFIC FISHERIES CONVENTION ACT

(R.S.C. 1970, c.F-16)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
search	5	protection officer (fishery officer within meaning of <u>Fisheries Act</u> , RCMP officer, person authorized by Governor in Council, s.2)

		fishing vessel of Canada, United States or Japan
seizure	6	protection officer
		fishing vessel of Canada, United States or Japan found engaging in operations in violation of Convention provisions or believed on reasonable grounds to have been so engaged prior to boarding under s.5
arrest, without warrant	6	protection officer
		person on board of vessel found engaged in or reasonably believe to have been engaged in operations in violation of Convention provisions
production	5	protection officer may inspect vessel's equipment, books, documents and other articles

52. NORTHERN PACIFIC HALIBUT FISHERIES CONVENTION ACT
(R.S.C. 1970, c.F-17)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
seizure	5(1)	protection officer (fishery officer within meaning of <u>Fisheries Act</u> , RCMP officer, person authorized by Governor in Council, s.2); anywhere in convention waters except territorial waters of United States (a) Canadian owned/operated fishing vessel in relation to which he suspects on reasonable grounds an offence against this Act was committed (b) U.S. owned/operated fishing vessel in relation to which he suspects on reasonable grounds an offence against this Act was committed in territorial waters of Canada (c) goods (including fish, tackle, rigging, apparel, furniture, stores and cargo) aboard vessel in (a) or (b)
	6(1)	protection officer who suspects on reasonable grounds that any of Convention provisions has been

		violated anywhere in convention waters except territorial waters of Canada or United States may seize/detain, anywhere in convention waters except territorial waters of United States (a) U.S. owned/operated fishing vessel in relation to which he suspects on reasonable grounds the violation was committed (b) goods (including fish, tackle, rigging, apparel, furniture, stores and cargo) aboard
arrest, without warrant	5(2)	protection officer
		anywhere in convention waters except territorial waters of United States (a) Canadian citizen/national/resident whom on reasonable grounds he suspects of having committed offence against this Act (b) United States citizen/national/resident whom on reasonable grounds he suspects of having committed offence against this Act in territorial waters of Canada
	6(2)	protection officer
		anywhere in convention waters except territorial waters of United States
		U.S. national/inhabitant whom on reasonable grounds he suspects of having violated any Convention provisions in convention waters other than territorial waters of Canada or United States
detention	5(3)	vessels/goods seized pursuant to s.5(1) are to be detained by protection officer making seizure on such person as Minister of Fisheries and Oceans directs
	6(3)	vessels/goods seized under s.6(1) or person arrested under s.6(2) to be detained by protection officer making seizure/arrest and delivered forthwith to an authorized official of the United States

53. NORTHWEST ATLANTIC FISHERIES CONVENTION ACT
(R.S.C. 1970, c.F-18; s.3.1 added R.S.C. 1970, c.12 (2nd Supp), s.1)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
general	3(f)	Governor in Council can prescribe powers of protection officers (fishery officers within meaning of <u>Fisheries Act</u> , RCMP officer, persons authorized by Governor in Council, s.2) and other persons engaged/employed in the administration/enforcement of this Act
seizure	3(e)	Governor in Council can make regulations for the seizure of fishing vessels (including equipment, fishing gear, fish in relation to which provisions of the regulations have been contravened)
entry/inspection	3.1(3)	protection officer upon request to owner/master of any fishing vessel within Convention area may board vessel and inspect fishing gear and catch thereof

54. PACIFIC SALMON FISHERIES CONVENTION ACT
(R.S.C. 1970, c.F-19)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
seizure	6(1)	protection officer (fishery officer within meaning of <u>Fisheries Act</u> , person authorized by Minister of Fisheries and Oceans, s.2) anywhere in convention waters except territorial waters of United States (a) Canadian owned/operated fishing vessel in relation to which he suspects on reasonable grounds an offence against this Act was committed (b) United States owned/operated fishing vessel in relation to which he suspects on reasonable grounds an offence against this Act was committed in territorial waters of Canada

		(c) goods (including fish, tackle, rigging, apparel, furniture, stores and cargo) aboard vessels in (a) or (b)
8(1)	protection officer	anywhere in convention waters except territorial waters of Canada or United States
		(a) United States owned/operated fishing vessel in relation to which he suspects on reasonable grounds a violation of convention provisions committed
		(b) goods (including fish, tackle, rigging, apparel, furniture, stores and cargo) aboard
detention	6(3)	vessels/goods seized pursuant to s.6(1) are to be detained by protection officer making seizure on such person as Minister of Fisheries and Oceans directs
	8(3)	vessels/goods seized pursuant to s.8(1) to be delivered by protection officer making seizure to authorized official of United States
arrest, without warrant	6(2)	protection officer anywhere in convention waters except in territorial waters of United States
		(a) Canadian citizen/national/resident whom on reasonable grounds he suspects of having committed an offence against this Act
		(b) United States citizen/national/resident whom on reasonable grounds he suspects of having committed an offence against this Act in territorial waters of Canada
	8(2)	protection officer anywhere in convention waters except territorial waters of United States
		United States national/inhabitant whom on reasonable grounds he suspects of violating convention provision(s)

		anywhere in convention waters except territorial waters of Canada or United States
		person so arrested to be delivered into custody of authorized official of United States, s.8(3)

55. FISHING AND RECREATIONAL HARBOURS ACT
 (S.C. 1977-78, c.30)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/search	11(a)	enforcement officer appointed by Minister of Fisheries and Oceans (s.10) who believes on reasonable grounds a provision of Act or regulations not being complied with board any vessel, enter any vehicle/premises where he reasonably believes there is evidence of non-compliance
seizure	14(2)	enforcement officer may remove/seize left or abandoned vessels/goods
seizure/detention	15	enforcement officer, believing on reasonable grounds amount due for charges re: any vessel or goods OR that Act or regulations re: any vessel or goods contravened may seize/detain vessel or goods
production	11(b)	enforcement officer may require person appearing to be in charge of vessel/vehicle/premises to produce log books, documents, paper which in officer's opinion may afford evidence of non-compliance in order to inspect, copy, extract
removal	11(d)	enforcement officer may prohibit use of harbour/remove from harbour any person/vessel/vehicle

whom he reasonably believes to be involved in non-compliance

Inquiries Act 26(2) person authorized by Minister of Fisheries and Oceans to conduct inquiry into accidents or dangerous incidents

56. FOOD AND DRUGS ACT (R.S.C. 1970, c.F-27)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/search	22(1)	Food and Drugs <u>Inspector</u> appointed by Governor in Council from staff of Department of National Health and Welfare or Department of Consumer and Corporate Affairs at any reasonable time; any place where he believes on reasonable grounds any article to which Act/regulations apply is manufactured/prepared/preserved/packaged/stored examine/take samples of articles; open/examine receptacles or packages
search, without warrant	37(1)(a)	<u>peace officer</u> without warrant, at any time, with force if necessary (s.37(4)), any place other than dwelling house in which he reasonably believes there is a controlled drug in relation to which an offence under Part III committed
search, with warrant	37(1)(a)	<u>peace officer</u> with warrant (s.37(2)) or writ of assistance (s.37(3)) re: search of dwelling-houses
	37(1)(b)	persons found therein subject to search
seizure/detention	22(1)(d)	Food and Drugs <u>Inspector</u> can require persons in places under s.22(1)(a) to produce books, records, documents located therein in order to examine, copy, extract

57. FOREIGN ENLISTMENT ACT

(R.S.C. 1970 c.F-29)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
detention	6(2)	officer appointed by Governor in Council, s.19(d) of a conveyance upon which any illegally enlisted person has been knowingly taken by person in control/owner until trial/conviction of such person or owner; and until all fines/penalties imposed have been paid or security approved by court given for payment thereof

58. FOREIGN INVESTMENT REVIEW ACT

(S.C. 1973-74, c.46)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	16(1)(b)	person authorized by Minister of Industry, Trade and Commerce to conduct investigations any premises where Minister believes there is evidence relevant to investment by non-eligible persons may examine, copy, extract any book, papers, records, document which authorized person feels may afford such evidence
production	16(1)(a)	Minister may require from non-eligible persons production of all contracts/agreements they have entered into re: the investment

59. FORESTRY DEVELOPMENT AND RESEARCH ACT

(R.S.C. 1970, c.F-30)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
seizure	8(1)	officers employed in the administration of this Act; peace officers as defined in <u>Criminal Code</u> (s.2) any articles

		in relation to which he reasonably believes an offence under this Act has been committed
detention	8(2)	of articles seized up to 1 month, unless proceedings commenced

60. **FRUIT, VEGETABLES AND HONEY ACT**
(R.S.C. 1970, c.F-31)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	5(a)	inspector appointed by Minister of Agriculture (s.4) at any time; any place/premises, steamship/vessel/boat, carriage/truck/car/vehicle and for carriage or produce
	5(c)	inspector may inspect transported product
seizure	5(e)	inspector may take sample of honey from apiary or other place where honey prepared/packed
seizure/detention	21	inspector may seize and detain all produce/produce packages in relation to which an offence against Act or regulations committed until compliance or forfeiture upon conviction
	5(d)	inspector may detain any shipment of produce for time necessary to complete inspection
production	5(b)	inspector may require for production any books, shipping bills, sales records, etc. in order to inspect, copy, extract

61. FUGITIVE OFFENDERS ACT

(R.S.C. 1970, c.F-32)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
search	19	any magistrate in Canada may issue a warrant to search for any property alleged to have been stolen/unlawfully taken or obtained by a person for whom a warrant for apprehension has been endorsed in pursuance of this Act
arrest, with warrant	7	fugitive may be apprehended under an endorsed warrant (s.8) or a provisional warrant (s.9)

62. PACIFIC FUR SEALS CONVENTION ACT

(R.S.C. 1970, c.F-33)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
search	10(1)	protection officer (fishery officer within meaning of <u>Fisheries Act</u> , person authorized by Minister of Fisheries and Oceans, s.2) reasonable cause to believe vessel engaged in pelagic sealing in convention waters contrary to Convention or this Act may board and search such vessel
seizure/arrest, without warrant	10(1)	protection officer after search, with reasonable cause to believe vessel/person on board is offending against pelagic sealing prohibition, may seize vessel/arrest person
seizure	11(1)	protection officer, suspecting on reasonable grounds offence committed against this Act in relation to a vessel subject to jurisdiction of Canada, anywhere except territorial waters of Convention country other than Canada vessel/goods aboard

detention	10(2)	protection officer vessel seized/person arrested pursuant to s.10(1) that is subject to jurisdiction of convention country other than Canada pending delivery to authorized official of that country
	11(3)	protection officer making seizure or person as Minister directs vessel/goods seized pursuant to s.11(1)
arrest, without warrant	10(1)	see above under "seizure"
	11(2)	protection officer anywhere except in territorial waters of a convention country other than Canada
		any person subject to jurisdiction of Canada whom he suspects on reasonable grounds of having committed an offence against this Act

63. GAME EXPORT ACT
(R.S.C. 1970, c.G-1)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
general	5	ex officio game officers (officers appointed under game laws of any provinces, members of RCMP and of police force of any province, customs officers) have all powers of a peace officer or a police constable for purposes of this Act and within the territory in respect of which they hold office
search, with warrant	7(1)	constable or game officer (ex officio game officer — officers appointed under game laws of any province, members of RCMP and of police force of any province, officers of customs; have all powers of peace officer or police constable, s.5), under warrant, anytime

		where, upon oath, he has reasonable grounds to believe any store, shop, warehouse, outhouse, dwelling-house, garden, yard, vessel, railway, vehicle, aircraft, other place where game is kept/concealed contrary to this Act
seizure	6	game officer with reason to suspect Act contravened in respect of any game or package, shipment or consignment may seize and bring before a justice of the peace without warrant
		N.B. It is arguable that s.6 must be read in light of s.7(1) that seizure under s.6 be made pursuant to a search warrant, however, the better interpretation appears to be that s.6 involves the transportation of game and may be seized without warrant and s.7(1) involves search of "place" where game is stored.

64. GAS INSPECTION ACT

(R.S.C. 1970, c.G-2)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	6(1)	contractor (a supplier of gas, s.2), at reasonable time, may enter premises of purchaser to inspect/test piping, fittings, apparatus; to ascertain quantity of gas consumed/supplied; changing (or removing where lawfully entitled) any piping, fittings, meters, apparatus
entry	8(4)	officer appointed under this Act (s.8(3)) called an inspector, at all reasonable times premises where gas is manufactured, distributed from, or used, in order to perform duties under this Act as directed by Minister of Consumer and Corporate Affairs

65. GOVERNMENT HARBOURS AND PIERS ACT
(R.S.C. 1970, c.G-9)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
detention	8	officer/person appointed to collect tolls/dues/penalties by Minister of Transport (s.6(1)) vessel, goods aboard (including tackle); until such tolls/dues/penalties paid

66. GOVERNMENT RAILWAYS ACT
(R.S.C. 1970, c.G-11)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
general	67(1)	appointment of railway constables upon application by superintendent
	68(2)	railway constables may act as constables for the preservation of the peace and for the security of persons and property against unlawful acts on the railways, its works and/or property
	68(3)	railway constables have all powers any constable has within his constabulary
entry	5(1)(b)	Minister of Transport; engineers, agents, workmen, servants, employed by him; superintendent of the Government railway appointed by Minister
seizure/detention	54	Governor in Council may provide for seizure/detention of any carriage, animal, timber, goods in violation of regulations

67. GOVERNMENT VESSELS DISCIPLINE ACT
(R.S.C. 1970, c.G-12)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
arrest, without warrant	11(1)	master/any officer of vessel belonging to the Government of Canada, with or without assistance of police constables any deserter or person found absent without leave

		to be conveyed before a commissioner or justice of the peace if practicable and required
detention	11(2)	master/any officer can detain arrested person up to 24 hours
		where conveyance before a commissioner or a justice of the peace is not required at time of arrest <u>or</u> such conveyance is impracticable due to absence of commissioner or justice of the peace at/near place of arrest

68. GOVERNMENT WORKS TOLLS ACT

(R.S.C. 1970, c.G-13)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
seizure/detention	7	collectors of tolls and dues, persons acting under their authority
		timber, until tolls or dues thereupon are paid or secured
	16	collector of tolls and dues, persons acting under their authority
		may seize/detain timber/lumber/saw-logs from manager/officer of railways upon refusal to render a correct account

69. CANADA GRAIN ACT

(S.C. 1970-71-72, c.7)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/search	72(1)(a)	inspector appointed by Canadian Grain Commission (s.10(d)), at any reasonable time
		any elevator; premises of the licensee of an elevator; premises of the licensed grain dealer in which he reasonably believes there is any grain, grain product, or screening
seizure	73(1)	inspector who believes on reasonable grounds that an offence committed under Act; grain, grain product,

		screening contaminated/infected; equipment in elevator inaccurate or unsafe re: weighing/handling of grain; elevator dangerous to persons/grain
		any documents/records that contain or are evidence of an offence under this Act
detention	73(2)	documents/records seized may be detained up to 30 days unless proceedings instituted
production	72(1)(b)	inspector may examine any books, records, bills of lading, other documents containing information re: enforcement of this Act and, may copy and extract
Inquiries Act	80(3)	Canadian Grain Commission in relation to public hearings, ss.80(1), 80(2)

**70. GRAIN FUTURES ACT
(R.S.C. 1970, c.G-17)**

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/production	5(1)(e)	supervisor (an officer of the Board of Grain Commissioners for Canada) appointed by Governor in Council (s.4) during business hours The Winnipeg Grain Exchange; The Winnipeg Grain and Produce Exchange Cleaning Association Limited; members of such associations in order to inspect book/records re: grain futures
Inquiries Act	7	Board of Grain Commissioners for Canada inquiry into transactions in grain futures on The Winnipeg Grain Exchange

71. HARBOUR COMMISSIONS ACT

(R.S.C. 1970, c.H-1; s.21 amended 1974-75-76, c.48, s.25 and 1978-79, c11, s.10)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
seizure	21	Commission (Harbour Commission), on order of magistrate, vessel or goods for which rates are due to the Commission or where owner/person in charge of vessel or goods has violated any by-law in respect of that vessel or goods
detention	22	vessels and goods seized pursuant to s.21 may be detained until amount due, penalties, costs incurred in seizure and detention, and court costs have been paid in full

72. HAY AND STRAW INSPECTION ACT

(R.S.C. 1970, c.H-2)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
general	3(c)	inspectors appointed by Minister of Agriculture (s.2) may inspect hay and straw at the place and under such conditions as the Minister may prescribe

73. HAZARDOUS PRODUCTS ACT

(R.S.C. 1970, c.H-3)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/search	5(1)(a), 5(1)(b)	hazardous products inspector appointed by Minister of Consumer and Corporate Affairs (s.4) at any reasonable time, any place he believes on reasonable grounds any hazardous product is manufactured, prepared, preserved, packaged, sold, or stored for sale may take samples of products, other related things and may open any receptacle, package

seizure	5(1)(d)	hazardous products inspector any product/substance, any labelling/advertising material, other things in relation to which he reasonably believes provision of Act or regulations violated
detention	5(6)	of seized things, at option of inspector as to place
production	5(1)(c)	inspector may examine, copy, extract books/records/documents that on reasonable grounds he believes contain information re: enforcement of this Act
Inquiries Act	9(4)	Hazardous Products Board of Review

74. CANADIAN HUMAN RIGHTS ACT (S.C. 1976-77, c.33)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	35(2)(a)	investigator appointed by Canadian Human Rights Commission (s.35(1)) at any reasonable time, any premises other than private dwelling place
production	35(2)(b)	investigator may require from any person found therein to produce for inspection (or to copy/extract) any books/documents relevant to investigation of a complaint
	40(3)(a)	Human Rights Tribunal appointed by Commission (s.39) can compel production of documents it deems requisite to the hearing (as a superior court of record)
general	58(5)	Privacy Commissioner has power of Human Rights Tribunal under Part III and may enter any premises occupied by any government institution concerned in the investigation to conduct inquiry

75. HUMANE SLAUGHTER OF FOOD ANIMALS ACT
(R.S.C. 1970, c.H-10)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
general	6	<p>every inspector appointed/designated/employed under <u>Meat Inspection Act</u></p> <p>may for the purpose of this Act, exercise all powers he has under the <u>Meat Inspection Act</u></p>

76. IMMIGRATION ACT, 1976
(S.C. 1976-77, c.52)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
general	111(1)	immigration officer has authority/powers of a peace officer re: enforcement of this Act, the regulations under the Act, or the regulations respecting the arrest, detention or removal from Canada of any person
	111(3)	immigration officer may employ assistants in cases of emergency who will have powers under s.111(1) up to 48 hours
entry	91(1)	immigration officer records or documents, in order to make copies/extracts
	111(2)(b), 111(2)(c)	immigration officer travel/other documents, where necessary to determine whether or not to grant admission or where there are reasonable grounds to believe they were obtained fraudulently,
	120	warrant/order of court property of persons liable to fines, costs etc. under this Act
detention of person	12(3)(b)	immigration officer adjournment of examination of person seeking entry

20	immigration officer may detain person and report him to a senior immigration officer or allow person to leave Canada forthwith
89	transportation company detain and guard person rejected/removed from Canada until placed on board conveyance
91(2)	master of vehicle bringing persons to Canada (upon order of immigration officer) hold and detain on board the vehicle any person who arrived in Canada on that vehicle and who is not seeking to come into Canada
104(1)	Deputy Minister of Employment and Immigration, senior immigration officer, may, by warrant, order detention of person
104(2)	peace officer may detain person (incidental to arrest)
104(3)(b)	adjudicator of inquiry may order detention of persons who in his opinion pose danger to public/would not appear
106	warden/governor/person in charge of an institution holding the person may at end of confinement, detain person and deliver into custody of immigration officer
arrest, without warrant	104(2) every peace officer in Canada, every immigration officer arrest and detain (or make order to detain) person for inquiry, execution of removal order where, in his opinion, person poses danger to public <u>or</u> would not appear for inquiry/removal
arrest, with warrant	104(1) Deputy Minister, senior immigration officer

		may issue warrant for arrest/detention of person
production	65	Immigration Appeal Board (s.59)
		may compel production of documents from witnesses as would a superior court of record

Inquiries Act 113 adjudicator, for purposes of an inquiry

77. IMPORTATION OF INTOXICATING LIQUORS ACT
(R.S.C. 1970, c.l-4)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
search	7	constable, peace officer (upon warrant) any premises or place (including Government railway, vehicle, or steamship), for intoxicating liquor that is/has been dealt with contrary to this Act
seizure	7	constable, peace officer (upon warrant) can seize the aforementioned intoxicating liquors found therein

78. INCOME TAX ACT

(R.S.C. 1952, c. 148; amended S.C. 1970-71-72, c.63)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	231(1)	person authorized by Minister of National Revenue, in administration/enforcement of this Act at all reasonable times any premises/place where business carried on/property kept/anything done in connection with any business/books, records are or should be kept
search	231(4)	in order to audit, examine any officer of Department of National Revenue together with members of RCMP or other peace officer; authorized in writing by Minister with approval of judge

		Minister has reasonable and probable grounds to believe violation of Act or regulations committed or likely to be committed
seizure	225	Minister may authorize seizure of chattels for non-payment under this Act
	226	s.225 applicable to person leaving Canada or defaulting before payment date
	231(1)(d)	person authorized by Minister, during course of audit, appears to him violation of Act or regulations committed documents/books/records, etc. as evidence
	232(3)	person authorized by Minister (s.231(1)) document in possession of lawyer claiming privilege; to be put in sealed package and place in custody of sheriff/agreed upon custodian
production	231(3)	Minister may compel production of documents, books etc. from any person
Inquiries Act	231(12)	hearing officer appointed by Minister on recommendation of Tax Review Board, s.231(8) for purposes of an inquiry, s.231(7)

79. INDIAN ACT

(R.S.C. 1970, c.l-6; s.9 amended 1974-75-76, c.48, s.25 and by 1978-79, c.11, s.10)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
general	119(1)	truant officer appointed by Minister, powers of peace officer re: enforcing attendance of Indian children at school
enter	119(2)(a)	truant officer may enter any place where he believes on reasonable grounds that

		there are Indian children between seven and 16 years of age or who are required by the Minister to attend school
arrest, without warrant	119(6)	truant officer may take into custody a child whom he believes on reasonable grounds to be absent from school contrary to this Act and convey the child to school
search, with warrant	103(4)	peace officer/person named in warrant at any time; may search the reserve, building, receptacle, or place for goods/chattels in relation to which an offence against ss.33, 90, 93, 94, 95, 97 has been/is being/about to be committed (where justice issuing warrant has reasonable grounds to believe they are there)
seizure	103(1)	peace officer, superintendent (s.2), person authorized by Minister of Indian Affairs and Northern Development believes on reasonable grounds an offence against ss.33, 90, 93, 94, 95, 97, has been committed
		all goods/chattels in relation to which he reasonably believes an offence was committed
	57(e)	Governor in Council can make regulations re: seizure of timber/minerals
detention	103(2)	goods/chattels seized pursuant to s.103(1) may be detained up to 3 months unless proceedings commenced
Inquiries Act	9(4)	judge of the Supreme Court, Superior Court, Court of Queen's Bench, county or district court, as the case may be re: inquiry into correctness of Registrar's decision (deletion from Band List or General List)

80. INDIAN OIL AND GAS ACT

(S.C. 1974-75-76, c. 15)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
seizure	4(c)	<p>Governor in Council can make regulations</p> <p>re: seizure and oil/gas taken in contravention of any regulation made under this section or any lease, licence or permit granted under such regulations</p>

81. INQUIRIES ACT

(R.S.C. 1970, c.l-13)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
	3	<p><u>Part I — Public Inquiries</u> appointment of commissioners by Governor in Council</p>
	4	<p>power to summons witnesses</p> <p>require witnesses to give evidence on oath (or solemn affirmation) and orally or in writing</p> <p>power to compel production of documents</p> <p>other things commissioners deem requisite to investigation</p>
	5	<p>commissioners have powers of court of record in civil cases</p> <p>re: enforcement of attendance/testimony of witnesses</p>
	6	<p><u>Part II — Departmental Inquiries</u></p> <p>appointment of commissioners by Minister, under authority of Governor in Council</p>
	7	<p>power to enter/remain in public offices</p> <p>power to examine all documents and books whatsoever</p> <p>power to summons witnesses</p> <p>require witnesses to give evidence on oath (or solemn affirmation) and orally or in writing</p>

8	may issue subpoena/summons and compel production of documents
9	evidence may be taken by delegated officers/persons
11(2)	<u>Part III — General</u> commissioner may depute experts to take evidence
	deputed persons, authorized by order in council, have all powers of commissioner to conduct inquiry
14(1)	<u>Part IV — International Commissions and Tribunals</u> Governor in Council may confer powers of commissioner under Part I to international commission or tribunal
	Governor in Council may limit/restrict use of s.14(1) powers in Canada

82. INSPECTION AND SALE ACT
(R.S.C. 1970, c.l-14)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	9	inspector any premises, in order to examine any bales or balls of binder twine (whether or not such bales/balls are on premises of dealer, or in possession of common carrier or other carrier)
seizure	10	inspector balls of binder twine not properly/correctly labelled (to be disposed of as Minister of Agriculture directs)

83. CANADIAN AND BRITISH INSURANCE COMPANIES ACT
(R.S.C. 1970, c.l-15)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
Inquiries Act	125(2)	Superintendent of Insurance re: hearings (British companies)
	152(2)	Superintendent of Insurance re: hearings (Canadian companies)

84. FOREIGN INSURANCE COMPANIES ACT
(R.S.C. 1970, c.I-16)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
Inquiries Act	9(2)	Superintendent of Insurance re: hearings (foreign companies)

85. INVESTMENT COMPANIES ACT
(S.C. 1970-71-72, c.33)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	7(1)	examiner appointed by Superintendent of Insurance (s.33) any office of investment company (or subsidiary)
production	7(1)	examiner may require person appearing to be in charge to produce books, records, documents relating to business, finances, and other affairs of company (or subsidiary) that are/expected to be at that office in order to inspect, copy, extract

86. JUDGES ACT

(R.S.C. 1970, c.J-1; s.30-32 amended R.S.C. 1970, c.16
(2nd Supp.) s.10; ss.30-32.2 renumbered as ss.39-43 by
1976-77, c.25, s.15.)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
	40(4)	Canadian Judicial Council s.39(1) or Inquiry Committee, s.40(3) deemed to be a superior court (re: inquiring into removal of judge)
production	40(4)(a)	power to summon any person/witness and require him to give evidence on oath, orally or in writing, or on solemn affirmation/produce documents and evidence as it deems requisite powers to compel attendance and giving of evidence

87. JUVENILE DELINQUENTS

(R.S.C. 1970, c.J-3)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
general	30	probation officer appointed under this Act or of any provincial statute has all the powers of a constable re: discharge of duties as probation officer under the Act
arrest, with warrant	17(4)	person bringing warrant; all others to whom warrant directed; all probation officers, constables, other peace officers of the juvenile court (or territorial division where warrant endorsed) arrest person against whom warrant issued, bring before juvenile court out of which warrant issued

88. CANADA LABOUR CODE

(R.S.C. 1970, c.L-1; s.63(2)(e) added 1977-78, c.27, s.22, Part V amended 1972, c.18, s.1, s.198(5) added 1976-77 c.28, s.21)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	91(3)	safety officer, to carry out duties in s.92, at any reasonable time
seizure/entry	91(2)(e)	property/place/thing used in operation of federal work/undertaking/business safety officer, for purposes of analysis material/substances used or handled by employees
production	91(2)	safety officer appointed by Minister of Labour (s.87) inspect books/records re: safety or health conditions affecting work of person employed in federal work/undertaking/business and copy or extract; require employer to give statements re: safety or health conditions and materials or equipment used by employees; require any person employed by or in connection with federal work/undertaking/business to

		produce documents re: conditions of work affecting safety or health
production	63(2)	inspector appointed by Minister of Labour (s.63(1))
		inspect books/records/payrolls of employer re: wages/ hours/condition of employment affecting any employee and make copies/take extracts; require employer to give statements re: wages/hours/conditions; require employer to produce documents re: wages/hours/conditions; require parties to complaint to give statements re: circumstances of dismissal of which complaint made
production	118	Canada Labour Relations Board (s.111) powers during proceedings of summoning/enforcing attendance of witnesses, compelling production of documents, compelling giving of evidence, entry upon employer's premises to conduct representation votes
Inquiries Act	62	person appointed by Minister of Labour re: inquire into and concerning employment in any industrial establishment
	68	person appointed by Minister of Labour re: inquiry into and concerning occupational safety in any federal work/undertaking/business
	198(5)	Industrial Inquiry Commission appointed by Minister of Labour, s.198(2) re: inquiry into matters referred to it by the Minister

**89. LAND TITLES ACT
(R.S.C. 1970, c.L-4)**

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
arrest, with warrant	155(3)	judge may issue warrant for arrest of person failing to respond to summons to attend issued pursuant to s.155(2)

90. CANADA LAND SURVEYS ACT

(R.S.C. 1970, c.L-5; s.54 amended 1976-77, c.30, c.32)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
Inquiries Act	54(2)	Hearing officer appointed by Minister of Indian Affairs and Northern Development or Commissioner administrating Canada Lands where surveys made (S.C. 1976-77, c.30, s.52(1)) re: inquiry into complaints against survey or plan

91. LIVESTOCK AND LIVESTOCK PRODUCTS ACT

(R.S.C. 1970, c.L-8)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	13(a)	<u>Part I — stockyards</u> inspector appointed by Minister of Agriculture (s.2) any stockyards or packer's yard in order to inspect and grade livestock s.13(b)
production	13(c)	inspector may require production for inspection of books/records/ documents or any stockyard or packer's yard or of any cooperative association, commission, merchant, or dealer
entry	36(a)	<u>Part II — livestock</u> inspector appointed by Ministry of Agriculture (s.2) any place/premises/vessel/vehicle containing or believed to contain livestock or livestock product in order to inspect such product, premises, vessel, vehicle
seizure/detention	36(e)	inspector seize and detain livestock/livestock product that is manufactured, packed, branded, labelled, marked, shipped,

		transported, or imported in violation of Part II
production	36(b)	inspector may require production for inspection of books/records/ documents re: livestock or livestock product or disposition thereof
entry	49(a)	<u>Part III — poultry</u> inspector appointed by Minister of Agriculture (s.2) any hatchery containing or believed to contain chicks or poultry
seizure/detention	49(d), 48	inspector seize and detain chicks/poultry that have been produced, packed, shipped, transported, or imported in violation of this Act
production	49(b)	inspector may require production for inspection of books/records/ documents re: chicks or poultry or disposition thereof
Inquiries Act	9	Commissioner, appointed by Governor in Council re: investigation of marketing of livestock and livestock products

92. LIVESTOCK FEED ASSISTANCE ACT

(R.S.C. 1970, c.L-9)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
Inquiries Act	7(2)	Canadian Livestock Feed Board (s.3) and members thereof, upon direction of Governor in Council re: inquiry related to (a) transportation/storage/handling of feed grain in Eastern Canada and British Columbia (b) supplies/prices of feed grain in Eastern Canada and British Columbia (c) payment re: cost of feed grain storage/transportation made under this Act

93. LIVESTOCK PEDIGREE ACT
(R.S.C. 1970, c.L-10)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
Inquiries Act	12(1)	person appointed by Minister of Agriculture re: inquiry into the manner in which an association is or has been conducting its business

94. LOAN COMPANIES ACT
(R.S.C. 1970, c.L-12)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
production	72(1), 72(2)	Superintendent of Insurance may require from loan company upon inspection at head office of company statements regarding business, finances, or other affairs of the company

95. MAPLE PRODUCTS INDUSTRY ACT
(R.S.C. 1970, c.M-2)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	7(a),(b)	inspector appointed by Minister of Consumer and Corporate Affairs (s.6) all buildings in connection with any manufacturing or packing plant, sugar camp, or any hotel, restaurant, retail/wholesale store, warehouse, railway car, truck, boat, or other conveyance where maple products or imitation maple products manufactured/offered for sale/ being carried/or held for carriage may take samples of products and examine books/records of manufacturing/packing plants
seizure	7(c)	inspector, from any place mentioned in s.7(a) any article he believes to be an adulterated maple product, intended for adulteration of any maple product,

or any maple product that is not graded/packed/market/ labelled produced/held in premises in compliance with this Act or the regulations

96. MEAT AND CANNED FOODS ACT
(R.S.C. 1970, c.M-6)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	40(1)(a)	inspector (s.5), other officer appointed under this Act, at any time at any place or premises, any steamship, vessel or boat, or any carriage, car, truck, horse-box, or other vehicles used for carriage of articles subject to this Act
seizure	22(2)	inspector, on view unsound fish/shellfish (canned or uncanned) at any point during preparing/packing process or afterwards
	27	inspector, customs/excise/police officer, constable can of fish/shellfish with false or misleading mark or that is incorrectly labelled or marked or not labelled or marked in accordance with this Act or regulations
arrest, without warrant	41(2)	inspector or other officer appointed under this Act can arrest any person obstructing him, s.41(1)
	45(1)	inspector or constable can arrest any person found committing an offence against this Act
detention of offenders	41(3), 45(2)	person arrested under ss.41(2), 45(1) may be detained up to 24 hours, without the order of a justice
production	40(1)(b)	inspector, other officer appointed under this Act may require production of books/shipping bills, etc. in order to inspect, copy, extract

97. MEAT INSPECTION ACT

(R.S.C. 1970, c.M-7)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	7(1)(a)	inspector (s.6) any place in which he reasonably believes there are meat products or other things to which this Act applies may open any package found therein in order to examine meat product/other things and take samples
seizure	8(1)	inspector, who believes on reasonable grounds Act has been violated meat products/other things in relation to which he reasonably believes violation committed
detention	8(2)	seized articles may be detained until compliance in inspector's opinion, 90 days unless proceedings commenced
production	7(1)(b)	inspector may require any person to produce books, shipping bills, documents, etc. re: the administration of this Act or regulations in order to inspect, copy, extract

98. MERCHANT SEAMEN COMPENSATION ACT

(R.S.C. 1970, c.M-11)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
detention	29(2)	collector, other chief officer of customs (upon notice in writing from Merchant Seamen Compensation Board) ship (without insurance coverage to the satisfaction of the Board), until notice from Board to release
production	16	Merchant Seamen Compensation Board can summon and compel the attendance of witnesses and require production of documents/things (as a court of record)

99. MIGRATORY BIRDS CONVENTION ACT

(R.S.C. 1970, c.M-12)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
general	5(1)	game officer appointed under this Act has all the powers of a police constable (all RCMP members are ex officio game officers for purposes of this Act)
entry/search	11	game officer (powers of the justice of the peace or police constable, including members of RCMP, s.5(1) — appointed by Minister of the Environment; also game/ fishery officers of a province if so declared by Governor, s.5(5)) or peace officer any place/premises in which he has reason to believe there are migratory game, migratory insectivorous, or migratory nongame birds/nest/eggs in violation of this Act or regulations may open/examine any trunk, box, bag, parcel, receptacle which he has reason to suspect and does suspect contains any such bird/nest/egg
seizure	7	game officer who believes on reasonable grounds (a) any gun/weapon/ammunition; boat/canoe/vessel; team/wagon/outfit; motor vehicle/aircraft; decoy/appliance/material is being/has been used in violation or for purpose of violating this Act or any regulation, or (b) any bird/nest/egg has been taken, caught, killed, or is/had in possession in violation of this Act or any regulation may seize articles in (a) or (b) and deliver to justice of the peace who may order forfeiture of articles if he finds they were used/caught in violation or for purpose of violation of this Act or any regulation

100. MOTOR VEHICLE SAFETY ACT

(R.S.C. 1970, c.26 (1st Supp.))

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/search	11(1)(a), 11(1)(b)	inspector appointed by Minister of Transport (s.10) at any reasonable time, any place when he reasonably believes there is any motor vehicle owned by/on premises of any manufacturer, distributor, importer, or consignee of imported vehicles or any motor vehicle component to be used in manufacturing
		in order to examine motor vehicle or component found in such place, and open any package therein
seizure	13(1)	inspector
		who believes on reasonable grounds that violation of Act/regulations committed
		motor vehicle or component
detention	13(2)	inspector can detain seized articles until compliance (in his opinion) or 90 days or longer prescribed period unless proceedings commenced
production	11(1)(c)	inspector can require any person to produce books, reports, test-data, shipping bills, other documents relevant to enforcement of this Act in order to inspect, copy, extract

101. MOTOR VEHICLE TIRE SAFETY ACT

(S.C. 1974-75-76, c.96)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/search	11(1)(a), 11(1)(b)	inspector appointed under <u>Motor Vehicle Safety Act</u> can be designated as inspector under this Act by Minister of Transport (s.10)

		at any reasonable time, any place where he reasonably believes there is any motor vehicle tire that is to be offered for sale and that is owned by/on premises of any manufacturer, distributor, importer or consignee of imported tires
seizure	13(1)	in order to examine any motor vehicle tire found in such place, and open any package therein
		inspector who believes on reasonable grounds that violation of Act/regulations committed
		motor vehicle tire
detention	13(2)	inspector can detain seized tires until compliance (in his opinion) or 90 days or longer prescribed period unless proceedings commenced
production	11(1)(c)	inspector can require any person to produce books, reports, test-data, shipping bills, other documents relevant to enforcement of this Act in order to inspect, copy, extract

102. NARCOTIC CONTROL ACT (R.S.C. 1970, c.N-1)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/search without warrant	10(1)(a), 10(1)(b)	peace officer at any time, any place other than private dwelling-house in which he reasonably believes there is a narcotic in relation to which an offence under this Act has been committed
entry/search with warrant	10(1)(a), 10(1)(b)	person found in such a place, s.10(1)(b) peace officer (with warrant or writ of assistance under s.10(2) or 10(3)) any dwelling-house person found therein, s.10(1)(b)
	10(4)	peace officer may use force (i.e. break-in)
seizure	10(1)(c)	peace officer

arrest, without warrant, etc.

any narcotic found in place mentioned in s.10(1)(a); anything in which he reasonably suspects a narcotic is contained/concealed; any other thing in relation to which he reasonably believes an offence under this Act has been committed or that may be evidence of commission of offence all provision of Criminal Code apply, *mutatis mutandis*, by virtue of s.27(2) of the Interpretation Act

103. NATIONAL DEFENCE ACT

(R.S.C. 1970, c.N-4; s.134(b) repealed S.C. 1972, c.13, s.73)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
general	239	Officers (persons holding Her Majesty's commission in Canadian Forces, subordinate officers in the Canadian Forces, persons who pursuant to law are attached or seconded as officers to the Canadian Forces) and men (persons, other than officers, enrolled in or pursuant to law attached or seconded to the Canadian Forces) when called out in aid of civil power have all powers and duties of constables as long as they remain called out; they act only as military body obeying orders of superior officers
seizure/detention	121(5)	officer appointed under regulations for purposes of this section may seize/detain goods in contravention of customs laws where the offence was committed
detention of person	253	any person under order of an officer
	132(2)	anyone who without reasonable excuse interrupts or hinders training/march of the Canadian Forces until such training/march is over for the day person authorized to effect arrest may use reasonable force

arrest, without warrant	133(1)	officer, without warrant, in circumstances in s.132, may arrest/order the arrest of any man (non-officer); any officer of equal or lower rank; any officer of higher rank engaged in a quarrel/fray/disorder
arrest, without warrant	133(2)	<u>man</u> , without warrant, in circumstances in s.132, may arrest/order the arrest of any man of lower rank; any <u>man</u> of equal or higher rank engaged in a quarrel/fray/disorder
arrest, without warrant/detention	133(a)	officers/men appointed under regulation for purposes of this section
		may detain/arrest without warrant, any person subject to Code of Service Discipline regardless of rank who has committed, is found committing, is suspected of being about to commit, is suspect/charged with having committed a service offence
arrest, without warrant	214(2)	constable; or if no constable nearby — any officer, man or other person upon reasonable suspicion that a person is a deserter or absentee without leave arrest suspected person and bring him before a justice
arrest, with warrant	214(3)	justice, satisfied by evidence on oath, that deserter or absentee without leave is, or is reasonably suspected to be, within his jurisdiction may issue warrant for arrest of deserter/absent without leave
production	212(3)	court martial may require production of documents from person summoned as witness under s.212(2)

104. NATIONAL ENERGY BOARD ACT

(R.S.C. 1970, c.N-6)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
general	10(3)	National Energy Board (s.3) powers of a superior court of record as to attendance/swearing/examination of

Inquiries Act	24	witnesses, production/inspection of documents, enforcement of its orders, inspection of/entry upon property, other matters necessary for due exercise of its jurisdiction
		National Energy Board for advisory functions under Part II of this Act

105. NATIONAL HARBOURS BOARD ACT
(R.S.C. 1970, c.N-8)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
general	5(1)	superior court judge within whose jurisdiction property under administration of the National Harbours Board is located may appoint any person as police constable re: enforcement of this Act and by-laws; enforcement of Laws of Canada or of any province as such enforcement relates to protection of property under administration of Board or to protection of persons present on property
		every such police constable is peace officer within meaning of Criminal Code and has jurisdiction on property under administration of Board and within 25 miles radius from such property
seizure/detention	17	National Harbours Board
		vessel (re: tolls due; Board property damaged; offence under this Act or by-laws; execution of judgements/penalties)
	18	National Harbours Board
		goods (as lien for tolls, penalties)
	19(3)(a), (b),(c)	seizure/detention effected upon order of any judge, any (b),(c) magistrate having power of 2 justices of the peace, chief officer of customs at any port in Canada

19(4) order under 19(3) may be executed by any constable or bailiff or officer of the Board

106. NATIONAL PARKS ACT (R.S.C. 1970, c.N-13)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
general	5(2)	every park warden and any other park officer designated by the Minister of the Environment has all the powers of a police constable
entry/search without warrant	8(2)(b)	constable; park warden, park officer designated by the Minister of the Environment, s.5(2) any building, premises, structure, camp, vessel, boat, vehicle, conveyance, or other place may open/examine any truck, barrel, box, parcel, or other package or receptacle whether or not within park boundaries upon reasonable belief that there is any fish/mammal/bird or firearms/traps/other devices in relation to which violation of this Act or regulations committed
seizure	8(2)(c)	constable, park warden, designated park officer on view timber, hay, mineral, fish, mammal, bird; arms, ammunition, explosives, traps, nets, rods, vessels, boats, vehicle; equipment, outfit, appliance; or any other article upon reasonable belief articles are or have been used/possessed in conviction with commission of violation
arrest, without warrant	8(2)(a)	constable, park warden, designated park officer, on view any person found committing offence against this Act or regulations or any person found committing an unlawful act within a park

107. NATIONAL TRANSPORTATION ACT

(R.S.C. 1970, c.N-17)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
general	45(3)	Canadian Transport Commission (s.6) re: entry on/inspection of property, attendance/ examination of witnesses, production/inspection of documents, enforcement of its orders, other matters necessary for due exercise of its jurisdiction (as a superior court)
	74(1)	Canadian Transport Commission may order examination of witnesses resident or present in Canada; compel production of books/papers/documents/ other articles
	82	Minister of Transport, Canadian Transport Commission, inspecting engineer, person appointed under <u>Railway Act</u> to make any inquiry/report may:
entry	82(a)	enter/inspect any place, building, or works that is the property of/under control of any company
	82(b)	inspect any works, structure, rolling stock, or other property of the Company
interrogation	82(c)	summon/examine/compel attendance of witnesses
production	82(d)	require production of all material, books, papers, plant, specifications, drawings, and documents

108. NAVIGABLE WATERS PROTECTION ACT

(R.S.C. 1970, c.N-19)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
detention	26	port warden, collector of customs vessel liable for fine upon conviction of a person for violation of s.20

109. NORTHERN INLAND WATERS ACT

(R.S.C. 1970, c.28 (1st Supp.))

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	30(1)(a), 30(1)(b)	inspector appointed by Minister of Indian Affairs and Northern Development (s.29) any area/place/premises within a water management area, other than a private dwelling place in which he reasonably believes construction being carried on of a work or works which will require use of waters or where waters are being used in excess of or in violation of licence in order to conduct inspection
entry/search	30(1)(d)	inspector any area/place/premises other than private dwelling place in which he reasonably believes a process is being/has been carried out that may result or has resulted in waste; or where there is any waste that may be or has been added to the waters in order to examine any waste found therein and may open any container found therein that he has reason to believe contains any waste and take samples thereof
Inquiries Act	16	Yukon Territory Water Board or Northwest Territories Water Board (s.7) in respect of any public hearing under s.15
production	30(1)(c)	inspector may require production of books/records/documents in place mentioned in s.30(1)(a) that he believes on reasonable grounds contains information re: operations resulting or likely to result in waste in order to examine, copy, extract

110. NORTHWEST TERRITORIES ACT
(R.S.C. 1970, c.N-22)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
seizure, without warrant	47(2)	peace officer, game officer on reasonable grounds for believing: any reindeer or part thereof has been taken/killed/transferred/shipped/had in possession in violation of the regulations; or that any vessel/vehicle/airplane/firearm/trap/other thing has been used in violation of the regulations, may effect seizure thereof in the Territories
seizure, without warrant	48(2)	peace officer on reasonable grounds for believing: any intoxicant has been manufactured/ compounded/made in/imported or brought into the Territories in violation of this Act; or that any vessel/vehicle/airplane/appliance/or thing has been used in violation of this Act, may effect seizure thereof in the Territories
seizure, without warrant	52(2)	peace officer on reasonable grounds for believing that any object, specimen, or document has been removed, taken, shipped, had in possession, or otherwise dealt with contrary to the regulations, may effect seizure thereof in the Territories

111. NUCLEAR LIABILITY ACT
(R.S.C. 1970, c.29 (1st Supp.))

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
production	25(2)	Nuclear Damage Claims Commission established by the Governor in Council (s.21) powers re: attendance/summoning/examination or witnesses,

		production/inspection of documents (as a superior court of record in civil cases)
25(3)		Nuclear Damage Claims Commission may issue commissions to take evidence outside of Canada
25(4)		powers of examination and investigation

112. OCEAN DUMPING CONTROL ACT
(S.C. 1974-75-76, c.55)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/search	21	inspector appointed by the Minister of the Environment (s.20) at any reasonable time; any place in which he reasonably believes there is substance intended for dumping/disposal being loaded or ship/aircraft if he reasonably believes there is substance intended for dumping/disposal on board may examine any substance, open any container found therein
seizure	23(1)	inspector who has reasonable grounds to believe offence committed under subsection 13(1),(2) or (3) by owner of any ship/aircraft; with consent of Minister of Environment ship or aircraft
detention	24(2)	person Minister of the Environment directs (s.23(2)) ship/aircraft seized under s.23(1); or security therefor up to 30 days unless proceedings commenced
detention	22(1)	inspector can make detention order in respect of the ship where owner/master charged with an offence under this Act
production	21(2)(b)	inspector may require any person in any place entered or any ship/aircraft boarded to produce books, papers, documents relevant to enforcement of this Act in order to inspect/copy/extract

Inquiries Act 12(6) Board of Review (s.12(2))
for purposes of an inquiry under s.12(4)

113. OFFICIAL LANGUAGES ACT
(R.S.C. 1970, c.O-2)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	30(d)	Commission of Official Languages for Canada (s.19) any premises occupied by any department/institution of the Parliament or Government of Canada
production	30(a)	Commission of Official Languages for Canada summon and enforce attendance of witnesses compel them to produce documents as he deems requisite
Inquiries Act	15(2)	Bilingual Districts Advisory Board appointed by Governor in Council (s.14) powers to conduct inquiry and power to negotiate draft agreements with a province to ensure any bilingual district established under this Act be conterminous with provincial districts

114. OFFICIAL SECRETS ACT
(R.S.C. 1970, c.O-2)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/search with warrant	11(1)	constable named in warrant (issued by the justice of the peace who is satisfied on oath there is a reasonable ground for suspecting offence under this Act has been or is about to be committed); entry by force if necessary
entry/search without warrant	11(2)	at any time may search any premises or place and every person found therein constable, under written order of officer of RCMP not superintendent, in cases of great emergency

seizure	11(1)	same authority to search/seize as under warrant of a justice of the peace constable under warrant any sketch, plan, model, article, note or document, or anything that is evidence of an offence under this Act
	16(2)	Solicitor General of Canada may issue warrant authorizing interception or seizure of any communication
arrest without warrant/detention	10	any constable or police officer any person found committing an offence under this Act or who is reasonably suspected of having committed or having attempted to commit or being about to commit such an offence

115. OIL AND GAS PRODUCTION AND CONSERVATION ACT (R.S.C. 1970, c.O-4)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	8(2)	Oil and Gas Committee (s.4) power to enter upon and inspect property
	43(a)	conservation engineer (s.42), at any reasonable time any place, premises or structure used in connection with production/storing/handling/processing/transporting of or the exploration/drilling for oil and gas in order to inspect and take samples
shut-down order	14(3)	Chief Conservation Officer (s.2) in order to prevent damage to person/property or to prevent damage/pollution, may shut-down operation
	47(1)	conservation engineer on reasonable and probable grounds is of the opinion that an operation is in contravention of any safety regulations and that continuation of operation is likely to result in serious bodily injury

production	8(2)	Oil and Gas Committee may summon witnesses and compel production of documents
	43(b)	conservation engineer may require production of books, records, documents, licences, permits in order to inspect and make copies
Inquiries Act	47(4)	magistrate to whom a shut-down order is referred re: inquiry into need for conservation engineer's order

116. PATENT ACT

(R.S.C. 1970, c.P-4)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
production	71(2)	Commissioner of Patents appointed by Governor in Council (s.4) may require production of books/documents re: purposes of cross-examination on issues raised by application and counterstatement
Inquiries Act	4(2)	Commissioner of Patents for purposes of this Act

117. PAWBROKERS ACT

(R.S.C. 1970, c.P-5)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
seizure/detention/ arrest, without warrant	10(1)	any pawnbroker with reason to suspect any person offering to pawn, pledge, exchange, sell or redeem any goods to which such person has no right or colour of title may seize and detain goods may seize and detain person deliver into custody of a peace officer or constable forthwith
arrest, without warrant	9	any person with reason to suspect any pawnbroker's note shown/offered to him has been forged may arrest person offering such note

deliver such person into custody of a peace officer or constable

118. PENITENTIARY ACT

(R.S.C. 1970, c.P-6, ss.2, 4 amended S.C. 1976-77, c.53, ss.35, 36)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
general	10	every officer of the Penitentiary Service is a peace officer in every part of Canada and has all the powers, authority, protection and privileges that a peace officer has by law
Inquiries Act	12	Commissioner of Corrections, appointed by Governor in Council (s.4), may appoint a person to investigate any matter affecting the operation of the Canadian Penitentiary Service

119. PENSION ACT

(R.S.C. 1970, c.P-7; s.82 added R.S.C. 1970, c.22 (2nd Supp), s.28)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
Inquiries Act	82(1)	Canadian Pension Commission and each member thereof; Entitlement Board; an Examiner; Pension Review Board with respect to carrying out its functions under this Act

120. PEST CONTROL PRODUCTS ACT

(R.S.C. 1970, c.P-10)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	7(1)(a)	inspector appointed by Minister of Agriculture (s.6) at any reasonable time, any place or premises for purposes of carrying out any provision of the Act or in which he reasonably believes a control product is/has been manufactured, stored, sold or used and may examine and take samples

seizure	9(1)	inspector who believes on reasonable grounds that this Act or regulations have been violated
		control product in relation to which he reasonably believes violation was committed
detention	9(2)	of seized control product until compliance in inspector's opinion; until owner agrees to dispose of control product; 6 months or longer prescribed period unless proceedings commenced
production	7(1)(c)	inspector may require any person to produce books, shipping bills, documents relevant to administration of this Act

121. PESTICIDE RESIDUE COMPENSATION ACT
(R.S.C. 1970, c.P-11)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	7(1)(a)	inspector appointed by Minister of Agriculture (s.6) at any reasonable time, any place or premises in which he reasonably believes there is any agricultural product, pesticide, or thing necessary to carry out investigation of compensation claim
production	7(1)(b)	inspector may require any person in such place/premises to produce books, shipping bills, mixing instructions, documents relevant to administration of this Act

122. PETROLEUM CORPORATIONS MONITORING ACT
(S.C. 1970, c.39)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/production	9(1)	person authorized by Minister of Energy, Mines and Resources

		at all reasonable times, any premises or place where any business of a corporation is carried on or where property/books/records are or should be kept
		in order to audit/examine books, records, documents
seizure	9(1)(d)	authorized person to whom it appears during course of an audit that there has been a violation of this Act
		any documents, books, records, papers, other things as evidence of the violation

123. PILOTAGE ACT

(S.C. 1970-71-72, c.52)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
Inquiries Act	14(6)	person appointed by Minister of Transport (s.14(5)) in order to investigate and hold public hearings
	18(4)	Pilotage Authority appointed by Governor in Council (s.3) power of commissioner in relation to any hearing before the Authority

124. PLANT QUARANTINE ACT

(R.S.C. 1970, c.P-13)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/search	6(1)(a)	inspector appointed by Minister of Agriculture (s.5) any place or premises in which he reasonably believes there is any pest or plant or other matter to which this Act applies may open any container or package found therein and take samples
seizure	9(1)	inspector believing on reasonable grounds offence under this Act committed

		plant of other matter in relation to which offence committed
detention	9(2)	of seized plant/matter until compliance in inspector's opinion; until owner agrees to dispose of such plant/matter; 90 days or longer prescribed period unless proceedings commenced
production	6(1)(b)	inspector may require any person to produce books, shipping bills, documents relevant to administration of this Act in order to inspect, copy, extract

125. POST OFFICE ACT
(R.S.C. 1970, c.P-14)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
detention	7(8)(b)	Postmaster General may detain or return to sender any mail directed to a person affected by an interim prohibitory order and anything deposited at a post office by an affected person
Inquiries Act	7(4)	Board of Review (s.7(2)) re: inquiry into facts and circumstances surrounding an interim prohibitory order
	48(3)	officers employed in the Canada Post Office appointed by Postmaster General to conduct investigations such officers have powers of commissioner under Part II and III of <u>Inquiries Act</u> , and, if so authorized by the Postmaster General, may suspend any postal employee suspected of misconduct in office

126. PRECIOUS METALS MARKING ACT
(R.S.C. 1970, c.P-19)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/production	7(1)	inspector appointed by Minister of Consumer and Corporate Affairs (s.6)

		at any reasonable time, the premises of any dealer and require production for inspection of any precious metal article upon the premises
seizure	7(1)	inspector
		any precious metal article that he reasonably suspects is marked otherwise than in accordance with this Act or regulations
detention	7(2)	of seized articles 90 days, unless proceedings commenced

127. PUBLIC SERVICE EMPLOYMENT ACT
(R.S.C. 1970, c.P-32)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
Inquiries Act	7(2)	Public Service Commission (or member thereof) (s.3) re: investigation or report

128. PUBLIC SERVICE STAFF RELATIONS ACT
(R.S.C. 1970, c.P-35; s.22 amended S.C. 1974-75-76, c.67, s.10)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	22(e), 22(f)	Public Service Staff Relations Board (s.11) or delegated person any premises of employer in order to inspect work and materials etc, and interrogate persons or to conduct representation votes
production	22(a)	Public Service Staff Relations Board may compel the production of documents it deems requisite to investigation

129. PUBLIC WORKS ACT
(R.S.C. 1970, c.P-38)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
seizure/detention	24(3)	person authorized by Governor in Council to collect tolls and dues upon public works (s.24(1))

steamboat, vessel, raft, crib or other craft, carriage, or vehicle and goods therein or thereon in lieu of tolls, dues, penalties

130. QUARANTINE ACT

(R.S.C. 1970, c.33 (1st Supp.); ss.8, 9, 18 amended and ss. 8.1, 9.1, added S.C. 1974-75-76, c.97)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/search	5(a)	quarantine officer appointed by Minister of National Health and Welfare (s.4) any conveyance arriving in Canada from abroad or departing from Canada for a place abroad in order to inspect conveyance and goods/cargo therein
detention	5(c)	quarantine officer may detain the conveyance/goods/cargo until compliance with requirements of this Act or regulations
	7(3)	quarantine officer may detain any conveyance until any costs of cleaning have been paid
	8(2)	quarantine may detain person refusing to undergo medical examination; person suspected of having infectious/contagious disease; person unable to produce proof of immunization; person believed to have been in close proximity to person described in s.8(1) in quarantine station, hospital, on the conveyance for period not exceeding incubation period or until he submits to vaccination or to an undertaking to report to a specified medical officer of health
	8.1(2)	quarantine officer may detain person refusing to undergo medical examination
	9(1)	quarantine officer may detain person with infectious/contagious disease

	9.1(1)	quarantine officer, subject to approval of Minister, may detain persons with dangerous diseases
	18(2)	collector of customs at place of entry without quarantine station persons described in ss.8, 8.1, 9, 9.1 until person has been examined by quarantine officer
production	5(b)	quarantine officer may require person in charge of conveyance described in s.5(a) and any person found therein to produce any documents that he believes on reasonable grounds are relevant to the enforcement of this Act.

131. RADIATION EMITTING DEVICES ACT

(R.S.C. 1970, c.34 (1st Supp.))

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/search	8	inspector appointed by Minister of National Health and Welfare (s.7) at any reasonable time, any place in which he reasonably believes there is any regulated radiation emitting device in order to examine the device, any may open any package found therein
seizure	10(1)	inspector who believes on reasonable grounds that this Act has been violated the device or component thereof in relation to which he reasonably believes the violation was committed
detention	10(2)	of seized device/component until compliance in inspector's opinion; or 90 days or longer prescribed period unless proceedings commenced
production	8(1)(c)	inspector may require production of books, reports, test data, records,

shipping bills, other documents that he believes on reasonable grounds are relevant to the enforcement of this Act in order to inspect, copy, extract

132. RADIO ACT

(R.S.C. 1970, c.R-1)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
general	7(1)(e)	the Minister of Communications may confer the powers of a peace officer upon inspectors appointed to enforce regulations respecting the installation, erection, construction or repair of antennae of radio stations
search	10(1)	officer named in search warrant (police officer, officer appointed by Minister of Communications)
	10(2)	radio station established without licence or technical construction and operating certificate or any place containing radio apparatus without such licence or certificate
seizure	10(2)	officer named in warrant radio apparatus installed or found in operation or possession of any person

133. RAILWAY ACT

(R.S.C. 1970, c.R-2)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
general	401(1), (a),(b), (c)	a constable, appointed by a superior or county court judge, two justices of the peace, stipendiary or police magistrate, on any part of Canada, a clerk of the peace, clerk of the Crown, or judge of the sessions of the peace, in Quebec, within whose jurisdiction this railway runs (s.400(1)), may act as constable for the preservation of the peace and for the security of persons and property against unlawful acts; on the railway, its works, property, and in all places not more than a quarter mile from such railway

general	401(2)	constable appointed under s.400(1) has all powers, protection and privileges for apprehending offenders by night and by day and for doing all things for the prevention, discovery, prosecution of offences and for keeping the peace as any duly appointed constable has within his constablewick (R.S., c.234, s.457)
entry	102	<p>railway company</p> <p>may enter any Crown land without previous licence or into lands of any person lying within intended route of railway</p> <p>in order to survey sites, make examination, etc.</p>
entry	139	<p>railway company</p> <p>may enter land through or near which the railway passes where mines are being worked and may enter mines or works connected therewith</p> <p>in order to discover distances from mines to railway, to determine whether working of mine is detrimental to the railway, its safety, or safety of the public</p>
entry/production	166	<p>arbitrator (s.161)</p> <p>may enter/inspect any land, place, building, works, or other thing being the property of the railway company or other party</p> <p>may require production of all books, plans, specifications, documents re: the matter before him</p> <p>may compel attendance and production of documents of witnesses</p>
seizure	302(1)	<p>railway company</p> <p>goods in respect of which tolls are payable</p>
detention	302(1)	<p>of goods seized</p> <p>until payment of tolls</p>

entry/production	319(2)	Canadian Transport Commission, for purpose of determining quantity or price of electricity to be supplied may enter/inspect property leased from the Crown and all machinery/erections thereon may examine all papers/documents/records/books of every kind may compel attendance and production of documents before the Canadian Transport Commission
production	335(1)	Canadian Transport Commission may require returns/statements from any railway, telegraph, telephone, or express company

134. ROYAL CANADIAN MOUNTED POLICE ACT
(R.S.C. 1970, c.R-9)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
general	7(4)	The Commissioner may appoint any member of RCMP and any special constable appointed as supernumerary special constable (s.10) to be a peace officer.
arrest	27(1)	member of RCMP (who is also a peace officer — 27(1)(b) or who is a member of higher rank — 27(1)(a)) may arrest a member who has committed, is found committing, is suspected of/charged with having committed a service offence
detention	28(1)	arrested member may be detained in custody, subject to any orders of the Commissioner of the RCMP until he is tried of the offence

135. ST. LAWRENCE SEAWAY AUTHORITY ACT
(R.S.C. 1970, c.S-1)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
seizure/detention	29(1)(c)	St. Lawrence Seaway Authority with approval of the Governor in Council

on the recommendation of the Minister of Transport may make regulations for seizure/ detention of vessels/goods/cargo in respect of which any sum is due for tolls and is unpaid or in respect of which any provision of this Act or any regulation has been violated

136. SALTFISH ACT

(R.S.C. 1970, c.37, (1st Supp))

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/search	26(2)	inspector appointed by Governor in Council (s.26(1)) any place or premises that he reasonably believes is being used to store/pack/process/prepare canned fish or by-products of fish canning for market/shipment <u>OR</u> any vehicle, vessels, trailer, railway car, or aircraft be reasonably believes is being used to ship/convey canned fish or by-products of fish canning for market may open any container found therein and take samples
seizure	27(1)	inspector who believes on reasonable grounds that violation of this Act committed canned fish or by-products of fish canning in relation to which violation committed
detention	27(2)	of seized fish/by-products until compliance in inspector's opinion or 90 days unless proceedings commenced
production	26(2)(1)	inspector may examine, copy, extract any books, shipping bills, other documents relevant to the enforcement of this Act

137. SEEDS ACT

(R.S.C. 1970, c.S-7)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/search	6(1)(a)	inspector appointed by Minister of Agriculture (s.5)

		any place in which he reasonably believes there is any seed to which this Act applies
		may open any package found therein and take samples
seizure	7(1)	inspector who believes on reasonable grounds that this Act has been violated
		seed/package in relation to which violation committed
detention	7(2)	of seized seed/package until compliance in inspector's opinion, or 6 months unless proceedings commenced
production	6(1)(b)	inspector may require any person to produce any books, shipping bills, other documents re: the administration of this Act

138. CANADA SHIPPING ACT

(R.S.C. 1970, c.S-9); s.236 amended 1974-75-76, c.48, s.25 s.702 amended R.S.C. 1970, c.10 (2nd Supp.), s.65 (Item 5) ss.732, 746, 760 added R.S.C. 1970, c.27 (2nd Supp.), s.3(2)

important note: The Canada Gazette, Part III indicates that many sections of the Canada Shipping Act have been amended or repealed by the Maritime Code, S.C. 1977-78, c.41, however, the latter has not been, nor is likely to be, proclaimed into force.

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
		persons with authority under the <u>Canada Shipping Act</u> :
		collector of customs
		chief officer of customs (Canadian, Commonwealth)
		officer of customs
		steamship inspector
		surveyor of ships
		registrar of British ships
		commissioned officer of armed forces (Canadian Forces, armed forces of Her Majesty)

		consular officer
		radio inspector
		shipping master
		receiver of wrecks (see also, s.498)
		inspector of Ships' Tackle
		port warden
		pollution prevention officer
		master of steamship
		master/mate/owner/ship's husband/consignee
		constables named in warrants
		appointees of Minister of Transport
		officers named in judicial orders
		assessor
search under warrant	260	constable named in search warrant issued by justice of the peace at any port or place in Canada
		dwelling-house or outhouse, on board ship, or any other place specified in warrant
		deserting seamen or apprentice found concealed whether named in the warrant or not
search under warrant	501,502	receiver of wrecks (or persons pursuant to s.498) under search warrant issued by a justice of the peace
		premises upon which is found any wreck
search with or without warrant	504	receiver of wrecks (or persons pursuant to s.498) with or without warrant books of junk dealers
entry/search	463(1)	inspector of Ship's Tackle appointed by Governor in Council (s.461)
		at all reasonable times, any ship/wharf/dock
		in order to exercise his duties
entry/search	546(a)	chief officer of customs; officer of Government of Canada; appointee of Minister of Transport
	546(b)	any vessel or wreck or article on board; any premises where it appears such

		entry/inspection is requisite for purposes of preliminary inquiry
entry/search	609	port warden, at request of interested person
		any ship
		in order to examine condition/storage of cargo
entry/search	732	pollution prevention officer
		any ship
		in order to determine compliance with regulations
entry/seizure	91	commissioned officer on full pay in the Canadian Forces or in armed forces of Her Majesty; officer of customs in a Commonwealth country; consular officer
		any ship/boat registered in Canada/owned by resident of Canada
		colours or pennant hoisted contrary to this Act
seizure	381(7)	chief officer of customs; person appointed by Minister of Transport
		steamship
		liable for fines and costs of conviction under Part VIII
seizure	476	collector of customs; person appointed by Minister
		ship
		liable for fines imposed upon owner under Part VIII
seizure	502	receiver of wrecks (or persons pursuant to s.498)
		any wreck that is secreted/concealed unlawfully
seizure	525	receiver of wrecks (or person pursuant to s.498)
		any property in his district that is liable for salvage
seizure	690	chief officer of customs
		ship

		liable for fines imposed for violation of this Act
seizure	760	pollution prevention officer who suspects provisions (Part XX) or regulations thereunder; with consent of the Minister
		ship and pollutant thereon
detention (ship)	see list of sections under Details	officer of customs
		ss.21, 86, 132, 175, 176, 267, 423, 428, 432, 619, 685, 702, 704
		chief officer of customs
		ss.391, 393, 410, 470, 472
		collector of customs
		ss.31, 453, 470, 471, 472, 661(1), 663(6), 664
		steamship inspector
		ss.12, 375, 417, 427
		consular officer
		ss.93, 410, 704
		commissioned officer of armed forces (Canadian forces, armed forces of Her Majesty)
		ss.93, 704
		person named in court order
		ss.236, 685, 702
		appointee of Minister of Transport
		ss.378(2), 472, 619
12		surveyor of ships
31		registrar of British ships
93		officer of customs in a Commonwealth country
410		radio inspector
704		shipping master
704		chief officer of customs in a Commonwealth country
detention (wrecks)	502	receiver of wrecks (or persons pursuant to s.498)

detention (person)	240	master/officer of steamship
		offenders against s.238 (drunkenness) or s.239 (injury or obstruction of steamer machinery/crew)
	244	master/mate/owner/ship's husband/consignee incidental to arrest of deserter (up to 24 hours)
arrest without warrant	240	master/officer of steamship
		person detained for violating ss.238, 239 (to be treated as if arrested)
	244(1)	master/mate/owner/ship's husband/consignee
		deserter or absentee without leave
arrest with warrant	246(2)	master/mate/owner or owner's agent
		deserters located on foreign ships and British ships not registered in Canada
production	269	chief officer of customs, consular officer from master of ship remaining in port 48 hours or longer
		ship's documents re: agreement with crew
	546(b)	chief officer of customs; officer of Government of Canada; appointee of Minister
		books, papers, documents relevant to preliminary inquiry
	703	commissioned officer of Her Majesty's ship, chief officer of customs in a Commonwealth country; shipping master log-books, list of persons on board ship
	704	persons empowered under s.703; consular officer; officer of customs documents relating to cargo
Inquiries Act	746(4)	assessors appointed by Minister of Transport (s.746(3))
		re: assessment of income losses due to pollutant

139. SHIPPING CONFERENCES EXEMPTION ACT, 1979
(S.C. 1978-79, c. 15)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
seizure/detention	17(1)	Canadian Transport Commission
		any vessel not depositing security or money
		until such sum of money/security is deposited

140. TARIFF BOARD ACT

(R.S.C. 1970, c.T-1; s.3 amended 1976-77, c.28, s.43)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
production	5(1)	Tariff Board (s.3) power to summon witnesses, require them to give evidence on oath (or solemn affirmation), require them to produce documents/things as the Tariff Board deems requisite

141. TAX REVIEW BOARD ACT

(S.C. 1970-71-72, c.11; s.3 amended 1977-78, c.22, s.33)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
production	8(2)	Tax Review Board (s.3) powers re: attendance/swearing/examination of witnesses and production/inspection of documents as are vested in a superior court of record

142. CANADA TEMPERANCE ACT

(R.S.C. 1970, c.T-5)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
search/seizure with warrant	137	person named in warrant any dwelling-house, store, shop, warehouse, outhouse, garden, yard, croft, vessel, building, or other place or places

		intoxicating liquor in violation of Part II of this Act, or of the <u>Temperance Act</u> of 1864
162		constable or peace officer executing warrant
		any person or place containing intoxicating liquor contrary to this Act (including Government Railway/vehicle/steamship)
		all kegs, barrels, cases, boxes, bottles, packages, other receptacles of any kind containing the intoxicating liquor
174		constable or peace officer executing warrant
		any premises or place containing intoxicating liquor in violation of Part X of this Act (including Government railway/vehicle/steamship)
		all kegs, barrels, cases, boxes, bottles, packages, other receptacles of any kind containing the intoxicating liquor
arrest	76	returning officer or deputy returning officer (s.13)
		may arrest or cause to be arrested, by verbal order at the polling
		arrested person may be imprisoned until any hour on that day, not later than the close of the poll

143. TERRITORIAL LANDS ACT (R.S.C. 1970, c.T-6)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
general	16(3)	person to whom warrant made under s.16(2) (re: order to remove from, vacate or cease using, possessing or occupying territorial lands described in warrant) is delivered for execution, has all the powers, rights, immunities and privileges enjoyed by a sheriff, constable or other peace officer of the execution of his duty.

seizure	14(e)	Governor in Council may make regulations for seizure of timber where dues unpaid
	14(f)	Governor in Council may make regulations for seizure of timber unlawfully cut on territorial lands

144. TEXTILE AND CLOTHING BOARD ACT
(S.C. 1970-71-72, c.39)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
Inquiries Act	11	Textiles and Clothing Board (s.3) and members thereof re: inquiry into importation of any textile and clothing goods

145. TEXTILE LABELLING ACT
(R.S.C. 1970, c.46 (1st Supp))

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/search	8(1)(a)	inspector under <u>Department of Consumer and Corporate Affairs Act</u>
	8(1)(b)	at any reasonable time, any premises of a dealer (s.2) or any other place in which he reasonably believes there is any textile fibre product that is owned by a dealer may examine any textile fibre product found therein and may open/examine any package found therein
seizure	10(1)	inspector who believes on reasonable grounds that any provision of this Act or regulations has been violated textile fibre product or any labelling/packaging/ advertising material in relation to which he reasonably believes the violation was committed
detention	10(2)	seized articles may be detained until compliance (in inspector's opinion), 90 days or longer prescribed period unless proceedings commenced

production 8(1)(c) inspector may require persons in such place to produce books, reports, test data, records, shipping bills, other documents that he believes on reasonable grounds contain any information relevant to the enforcement of this Act
in order to examine, copy, extract

146. TOBACCO RESTRAINT ACT

(R.S.C. 1970, c.T-9)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
seizure	3	constable, person with powers of a constable, person authorized to do so by any by-law cigarettes, cigarette papers, or tobacco in any form in possession of any person apparently under the age of 16 years whom he finds smoking/chewing or about to smoke/ chew in any street or public place
	5	person upon whose premises there is cigarette machine (or his agent) any cigarettes/cigars/tobacco obtained from such machine and in possession of any person apparently under the age of 16 years using machine or smoking/about to smoke

147. TRADING WITH THE ENEMY (TRANSITIONAL POWERS) ACT

(S.C. 1947, c.24; amended 1966-1967, c.25, s.38)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
arrest, with warrant	schedule s.60	person executing warrant any person committing the offence of trading with the enemy under ss.2, 3 of the schedule
production	schedule s.8(2)	inspector (s.8(1)) authorized by Registrar General may inspect all books, files, documents re: the subject- matter of the inspection regardless of who owns or controls such books, files, documents

148. TRANSPORT ACT
(R.S.C. 1970, c.T-14)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
detention	11(3)	collector of customs who believes that any ship to which Part II applies is transporting or has transported passengers/goods without a licence in contravention of Part II may detain ship until disposition of complaint or charge and payment of any fine

149. DEPARTMENT OF TRANSPORT ACT
(R.S.C. 1970, c.T-15)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
seizure/detention	23(3)	collector of tolls or person authorized to collect tolls steamboat, vessel, raft, crib, or other craft <u>AND</u> goods aboard (regardless of ownership) liable for tolls, dues, penalties under this Act

150. TRUST COMPANIES ACT
(R.S.C. 1970, c.T-16)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
production	74(2)	Superintendent of Insurance statement re: business/finance/other affairs of the company and he may inspect the books of the company

151. UNEMPLOYMENT INSURANCE ACT, 1971
(S.C. 1970-71-72, c.48; s.113 amended 1976-77, c.54, c.60)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/production	73(1)(a)	person authorized in writing by Minister of National Revenue

		at any reasonable time, any premises or place where any records or books of account are/should be kept
seizure/detention	73(1)(c)	in order to audit/examine any books, records, writings, or other documents
		authorized person, discovering offence during course of audit
		any books, records, writings, or other documents until production required in any court proceedings
entry/production	113	authorized officer of the Unemployment Insurance Commission
		at all reasonable times, any premises or place where he reasonably believes persons are/were employed
		in order to determine entitlement of such persons and may require the production of books, cards, wage-sheets, ledgers, etc. from the occupier; person appearing to be the employer and his servants, agents, and persons in his employ
Inquiries Act	110(2)	Unemployment Insurance Commission re: investigation directed by Governor in Council

**152. UNITED NATIONS ACT
(R.S.C. 1970, c.U-3)**

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
seizure/detention	3(2)	Minister of Justice, upon proceedings in the Exchequer Court of Canada or in any superior court goods/wares/merchandise dealt with contrary to any other Act or regulation made under this Act

**153. VETERANS' LAND ACT
(R.S.C. 1970, c.V-4)**

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
Inquiries Act	41	person(s) appointed by Governor in Council

re: inquiries in aid of the execution of
any of the purposes of Part I of this
Act

154. WAR MEASURES ACT
(R.S.C. 1970, c.W-2)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
seizure/detention	8	Minister of Justice, upon proceedings in the Exchequer Court of Canada or any superior court ship or vessel used/moved; any goods/wares/merchandise dealt with contrary to any order or regulation under this Act
general	3	special powers of Governor in Council, enforced by courts, officers, authorities as Governor in Council may prescribe all matters coming within the following classes of subjects: (a) censorship (b) arrest, detention, exclusion, deportation (c) control of harbours, ports, territorial waters of Canada and movement of vessel (d) transportation (e) trading, exportation, importation, production, manufacture (f) appropriation, control forfeiture and disposition of property and of the use thereof

155. WAR VETERANS ALLOWANCE ACT
(R.S.C. 1970, c.W-5)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
Inquiries Act	26	District Authority appointed by Minister of Veterans Affairs with approval of Governor in Council (s.23); War Veterans Allowance Board appointed by Governor in Council (s.25) and

persons acting under the authority of the Board

re: investigation into whether allowance should be made/suspended/revoked, amount of allowance, recipient of payments

156. WEIGHTS AND MEASURES ACT
(S.C. 1970-71-72, c.36)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry	17(a)	inspector, designated under <u>Department of Consumer and Corporate Affairs Act</u> at any reasonable time, premises of a trader or other place in which he reasonably believes there is a device that is or is to be used in trade, commodity that has been or is being packaged/marketed on the basis of measure for sale, commodity owned by a trader that is for sale and had been packaged/marketed on the basis of measure.
		in order to inspect device, commodity packaging and labelling material found therein
production	17(c)	inspector may require persons in place mentioned in s.17(a) to produce books, reports, shipping bills, documents that he believes on reasonable grounds contain any information relevant to the enforcement of this Act in order to examine, copy, extract

157. WESTERN GRAIN STABILIZATION ACT
(S.C. 1974-75-76, c.87)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/search/ production	32(1)	inspector of the Canadian Grain Commission at any reasonable time, any elevator or any premises of a licensee in which he

		reasonably believes there are any books, records, cash purchase tickets, or other documents relating to the collection of the levy
seizure	33(1)	inspector who believes on reasonable grounds that any offence under this Act has been committed by a licensee any documents or records as evidence
detention	33(2)	of seized documents or records up to 30 days unless proceedings commenced

158. WHALING CONVENTION ACT

(R.S.C. 1970, c.W-8)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
seizure	6(c)	Governor in Council may make regulations re: seizure of any whales or whale products in relation to which any of the provisions of this Act or regulations have been violated

159. WINDING-UP ACT

(R.S.C. 1970, c.W-10)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
seizure	118	person acting under court order books, papers, money, securities for money, goods and chattels of absconding contributory, director, manager, officer, or employee of the company
arrest, with warrant	118	person acting under court order can arrest with warrant an absconding person

160. YUKON ACT

(R.S.C. 1970, c.Y-2)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
seizure	47(2)	peace officer or game officer with reasonable grounds to believe that any reindeer or part thereof has been taken/killed/transferred/shipped/possessed in violation of

		regulations; or that any vessel/vehicle/airplane/ firearm/trap/other thing has been used in violation of the regulations in the territory, without warrant may effect seizure thereof
seizure	48(3)	peace officer, with reasonable grounds to believe intoxicant manufactured/ compounded/made in the territory or imported in violation of this Act; or that any vessel/vehicle/airplane/ appliance/other thing has been used for above purposes in violation of this Act may effect seizure thereof
seizure	52(2)	peace officer, with reasonable grounds to believe any archaeological object/specimen/document has been removed/ taken/shipped/possessed contrary to the regulations in the territory, without warrant may effect seizure thereof
search/seizure without warrant	54(4)	peace officer with reasonable and probable grounds to believe a person has or is about to export gold without payment or royalty or has in his possession such gold without warrant may search the person and his belongings and seize any such gold found
detention	54(6)	of seized gold 6 months unless proceedings commenced

161. YUKON PLACER MINING ACT
(R.S.C. 1970, c.Y-3)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
search/seizure without warrant	86(4)	peace officer who believes on reasonable and probable grounds that a person is about to ship gold out of the territory without paying royalty or has in his possession such gold

		without warrant may search the person and his belongings and seize such gold found
detention	86(6)	of seized gold 6 months unless proceedings commenced

162. YUKON QUARTZ MINING ACT

(R.S.C. 1970, c.Y-4; s.95 amended 1972, c.17, s.2)

<u>POWER</u>	<u>SECTION</u>	<u>DETAILS</u>
entry/search production	95(14)	Commissioner of the Yukon Territory, mining recorder, mining recorder's agent mining property in order to inspect all buildings, equipment, books of account/documents re: the mine's operation
seizure	95(21)	sheriff of the territory with warrant signed by Minister of Indian Affairs and Northern Development or by Commissioner of the Yukon Territory may liable for default in payment of royalty

APPENDIX E

REGULATIONS RESPECTING NON-MAILABLE MATTER AND ITS DISPOSITION

Short Title

1. These Regulations may be cited as the Prohibited Mail Regulations.

Interpretation

2. In these Regulations,

“Act” means the Post Office Act;

“non-mailable matter” means anything prescribed as non-mailable matter by section 3.

“self-mailer” means any article other than a postcard, magazine, catalogue or an item of householder mail as defined in the Third Class Mail Regulations, that does not have an outer cover, wrapping or envelope in addition to the paper or material on which is placed the written communication.

Non-mailable Matter

3. For the purposes of the Act and these Regulations, the following articles are non-mailable matter:

- (a) the articles listed in Schedule I when addressed for delivery in Canada;
- (b) the articles listed in Schedule II when addressed for delivery outside Canada;
- (c) articles that by their nature or the manner in which they are packed may expose postal employees to danger;
- (d) articles that may soil or damage other mail or post office equipment;
- (e) articles that have on their outside cover
 - (i) anything written or printed, or attached thereto, other than the particulars of address of the addressee and of the sender and approved endorsements or attachments,
 - (ii) on the address side thereof, a stamp of a charity or some other non-postal stamp indicating value,
 - (iii) in the space reserved for postage stamps, stamps or stickers of private manufacture,

- hand stamped or printed facsimiles of postal cancelling or franking stamps, or
- (v) successive addressees;
 - (f) envelopes with windows unless
 - (i) each window has a transparent covering, and
 - (ii) the longest dimension of the window through which the address is visible is parallel with the length of the envelope;
 - (g) envelopes with more than one window, where the envelope is addressed for delivery in a country other than Canada, Mexico or the United States and its territories and possessions;
 - (h) envelopes and self-mailers, deposited at a post office as Domestic or International First Class Mail or Domestic Third Class Mail, that are not completely sealed;
 - (i) envelopes, deposited at a post office as second class mail, that are not completely sealed and do not exceed
 - (i) 150 mm in width,
 - (ii) 255 mm in length,
 - (iii) 5 mm in thickness, or
 - (iv) 50 g in weight; and
 - (j) self-mailers, deposited at a post office as printed papers as described in item 1 of Schedule II to the Third Class Mail Regulations in column 1 thereof, that are unsealed.

Dispositions of Domestic Non-mailable Matter

4. Where, pursuant to section 44 of the Act, non-mailable matter found in the domestic mails is sent to the section of the Department established by the Postmaster General for the receipt thereof, it shall be disposed of as follows:
 - (a) in the case of an article set out in paragraph 3 (e) to (i) or in item 1 of Schedule I, it shall be
 - (i) returned to the sender if its outside cover shows a return address, or
 - (ii) destroyed if its outside cover shows no return address;
 - (b) in the case of an article set out in item 2 or 11 Schedule I or in item 3 of Schedule II, it shall be destroyed or, where its destruction is not practicable, disposed of in a manner approved by the Postmaster General;

- (c) in the case of an article set out in item 3 of Schedule I, it shall be delivered to the local animal shelter for disposal; and
- (d) in the case of an article set out in
 - (i) paragraph 3 (c) or (d), or
 - (ii) item 4 to 10 or item 12 of Schedule I,

it shall be disposed of in a manner that will not expose employees to danger.

Disposition of Imported Non-mailable Matter

5. (1) Subject to subsection (2), where non-mailable matter found in any mail by a customs officer is transmitted to the Postmaster General pursuant to section 46 of the Act, it shall be sent to the section of the Department established by the Postmaster General for the receipt thereof and held

- (a) for 30 days after the date of its arrival at that section, or
- (b) until the final disposition of any proceeding in which the non-mailable matter may be required, if such proceedings were commenced before and continued after the expiration of the 30 days referred to in paragraph (a),

and thereafter shall be destroyed

(2) Where, pursuant to subsection (1), intoxicating beverages found in the mails are sent to the section of the Department mentioned in that subsection, they shall be

- (a) returned to the country of origin, if the addressee so requests and pays the return postage; or
- (b) held for 30 days after the date of their arrival at that section and thereafter shall be destroyed.

SCHEDULE 1 (ss. 3 and 4)

1. Intoxicating liquor except when mailed by provincial government liquor control boards.
2. Any article emitting an offensive or noxious odour.
3. Living animals other than

- (a) bees when packed in accordance with subparagraph 2 (b) (xxii) in Column II of Schedule I to the Fourth Class Mail Regulations;

- (b) specimens of parasites, and noxious insects, and destroyers intended for the control of such insects, when properly packed and addressed to or coming from government laboratories or exchanged between officially recognized institutions; and
- (c) day-old chicks when packed in accordance with subparagraph 2 (b) (xxi) in Column II of Schedule I to the Fourth Class Mail Regulations.

4. Explosive substances.
5. Inflammable liquids or solids.
6. Compressed gas.
7. Corrosive liquids.
8. Oxidizing, toxic or radioactive matter.
9. Matches, except safety matches packed in containers approved by the Post Office Department.
10. Liquid celluloid and celluloid in other forms including inflammable films.
11. Liquids, oils, fatty substances and perishable items such as fish, meat or fresh fruit unless such items are packed in accordance with subparagraph 2 (b) (xviii) of (xix) in Schedule I to the Fourth Class Mail Regulations as the case may be.
12. Dangerous articles not set out in items 4 to 10.

SCHEDULE II
(ss. 3 and 4)

1. Articles listed in Schedule I.
2. Intoxicating beverages except when passing between provincial liquor control boards or commissions and foreign manufacturers or distributors of intoxicating beverages.
3. Perishable biological substances.
4. (1) Letter-post items containing articles that are prohibited from being inserted in letter-post items by article 33 of the Universal Postal Convention, Lausanne, 1974 and by Article XII of the Final Protocol of the Universal Postal Convention.

(2) In this item, "letter-post items" means letters, postcards, printed papers, literature for the blind and small packets.

